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INVITATION TO BID

Date: _____

***** TO BE COMPLETED FOR SPECIFIC PROJECT *****

Sealed Bids will be received by _____

_____ (OWNER)

at _____

until _____ m., local time, _____, 20____,

for Contract No. _____.

At said place and time, and promptly thereafter, all Bids that have been duly received will be publicly opened and read aloud.

The proposed Work is generally described as follows:

***** INSERT EXACT SAME DESCRIPTION AS INCLUDED IN ***
AGREEMENT AND PROJECT REQUIREMENTS.**

All Bids must be in accordance with the Bidding Documents on file with

_____ (Owner)

and at the office of _____

_____.

Section 00020 – Invitation to Bid

Copies of the Bidding Documents have also been provided to plan rooms of Associated General Contractors and F. W. Dodge Corporation in Charlotte, North Carolina.

Copies of the Bidding Documents may be obtained from Owner at the address stipulated herein at a charge of \$_____.00. No refunds will be made.

Bidders must be licensed contractors in the State of North Carolina. All Subcontractors must also be licensed contractors in the State of North Carolina.

Bids will be received on a unit price basis.

Bid security in an amount of 5 percent of the Bidder's maximum Bid must accompany each Bid.

The Successful Bidder will be required to furnish a Construction Performance Bond and a Construction Payment Bond as security for the faithful performance and the payment of all bills and obligations arising from the performance of the Contract.

Contractor and all Subcontractors will be required to conform to the labor standards employment requirements set forth in the Contract Documents.

The Bidder is required to make positive efforts for minority business participation in accordance with State G.S. 143-128.2. The Bidder shall identify efforts made in this regard and list minority business enterprises that will be used on the project as required in the bidding documents.

Standard Specifications for Wastewater Collection and Water Distribution for Cabarrus County shall be used on this project. Contractor shall obtain standard specifications, latest revision date is [August, 2006](#), from the Water and Sewer Authority of Cabarrus County (WSACC) at 232 Davidson Highway, Concord, North Carolina 28027.

If the Contract is to be awarded, Owner will give the Successful Bidder a Notice of Award within the number of days set forth in the Bid Form for acceptance of the Bid.

By _____

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

1.01. Terms used in these Instructions to Bidders shall have the meanings assigned to them in the General Conditions and in the Supplementary Conditions. Additional terms used in these Instructions to Bidders shall have the meanings indicated below, which are applicable to both the singular and plural thereof.

- A. Bidder - The individual or entity who submits a Bid directly to Owner.
- B. Issuing Office - The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- C. Successful Bidder - The lowest qualified, responsible, and responsive Bidder to whom Owner (on the basis of Owner's evaluation as herein provided) makes an award.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

2.01. Bidding Documents which include all front-end documents may be obtained from the Owner at address indicated on Invitation to Bid, and from the Issuing Office of _____

at _____

on the following basis:

	<u>Charge</u>	<u>Refund</u>
Complete set of Bidding Documents	\$ <u> </u> .00	None

2.02. Standard Specifications for Wastewater Collection and Water Distribution for Cabarrus County shall be used on this project. Contractor shall obtain standard specifications, current revision date is [August, 2006](#), from the Water and Sewer Authority of Cabarrus County (WSACC).

2.03. Complete sets of Bidding Documents must be used in preparing Bids; Owner and Engineer will assume no responsibility for errors or misrepresentations resulting from the use of incomplete sets of Bidding Documents.

2.04. Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01. To demonstrate Bidder's qualifications to perform the Work, Bidder shall submit within 5 days after Owner's request, written evidence on financial data, previous experience, present commitments, and other such data as may be requested by Owner or Engineer. The Bid shall contain evidence of Bidder's qualification to do business in the state where the Project is located.

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

***** INCLUDE THE FOLLOWING PARAGRAPH ONLY IF REPORTS ***
AND DRAWINGS ARE AVAILABLE.**

4.01. Subsurface and Physical Conditions.

A. The Supplementary Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.
2. Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except underground facilities) that Engineer has used in preparing the Bidding Documents.

B. Copies of such reports and drawings will be made available by Owner to Bidder upon request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.02 of the General Conditions has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated on such drawings.

4.02. Underground Facilities.

- A. Information and data reflected in the Bidding Documents with respect to underground facilities at or contiguous to the site are based upon information and data furnished to Owner and Engineer by owners of such underground facilities or others, and Owner and Engineer disclaim responsibility for the accuracy or completeness thereof, unless it is expressly provided otherwise in the Supplementary Conditions.

4.03. Hazardous Environmental Condition.

- A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the site, if any, that Engineer has used in preparing the Bidding Documents.
- B. Copies of such reports and drawings will be made available by Owner to Bidder upon request. These reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.06 of the General Conditions has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation of conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports, or shown or indicated on such drawings.

4.04. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and underground facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in Paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a hazardous environmental condition at the site, if any, and possible changes in the Contract Documents due to any hazardous environmental condition uncovered or revealed at the site which was not shown or indicated in the Bidding Documents or identified in the Contract Documents to be within the scope of the Work appear in Paragraph 4.06 of the General Conditions.

4.05. Before submitting a Bid, each Bidder may, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests, and studies and obtain any additional information and data which pertain to physical conditions (surface, subsurface, and underground facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance, or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.

On request 24 hours in advance, Owner will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the site to its former condition upon completion of such explorations. Arrangements for site visits shall be made by calling _____ at (____)_____.

4.06. Reference is made to the Supplementary Conditions for the identification of the general nature of other work that is to be performed at the site by Owner or others (such as utilities or other prime contractors) that relate to the Work for which a Bid is to be submitted. On request, Owner will provide to Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

4.07. It is the responsibility of each Bidder before submitting a Bid to:

- A. Examine and carefully study the Bidding Documents, including any Addenda and other related data identified in the Bidding Documents;
- B. Visit the site and become familiar with and satisfy Bidder as to the general, local, and site conditions that may affect cost, progress, and performance of the Work;
- C. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or performance of the Work;
- D. Carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except underground facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions, and carefully study all reports and drawings of a hazardous environmental condition, if any, at the site which have been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions;
- E. Obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at or contiguous to the site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including any specific means, methods techniques, sequences, and procedures of construction

expressly required by the Bidding Documents and safety precautions and programs incident thereto;

- F. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;
- G. Become aware of the general nature of the work to be performed by Owner or others at the site that relates to the Work indicated in the Bidding Documents;
- H. Correlate the information known to Bidder, information and observations obtained from visits to the site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;
- I. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and
- J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

4.08. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement concerning examination of the Bidding Documents and the site, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 5 - SITE AND OTHER AREAS

5.01. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and other lands designated for use by Contractor in performing the Work are identified in the Bidding Documents. All additional

lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by Owner unless otherwise specified in the Bidding Documents.

ARTICLE 6 - INTERPRETATIONS AND ADDENDA

6.01. All questions about the meaning or intent of the Bidding Documents shall be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than 10 days prior to the date for opening of Bids may not be answered. Only answers issued by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

ARTICLE 7 - BID SECURITY

7.01. Each Bid must be accompanied by bid security made payable without condition to Owner in an amount of 5 percent of Bidder's maximum Bid and in the form of a certified or bank check or a bid bond issued by a surety meeting the requirements set forth in the Supplementary Conditions.

7.02. The bid security of the Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and to furnish the required contract security within the number of days set forth in the Bid Form, Owner may annul the Notice of Award and the bid security of that Bidder will be forfeited. The bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Agreement or the day after the last day the Bids remain subject to acceptance as set forth in the Bid Form, whereupon bid security furnished by such Bidders will be returned.

7.03. Bid security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within 7 days after the Bid opening.

ARTICLE 8 - CONTRACT TIMES

8.01. The numbers of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the Contract Times) are set forth in the Bid Form.

ARTICLE 9 - LIQUIDATED DAMAGES

9.01. Provisions for liquidated damages, if any, are set forth in the Agreement.

ARTICLE 10 - SUBSTITUTE AND "OR-EQUAL" ITEMS

10.01. Bidder's attention is directed to Article 6.05 of the General Conditions concerning Substitutes and "Or-Equal" items. Where an item or material is specified by a proprietary name, it is done for the purpose of establishing a basis of quality and not for the purpose of limiting competition. The Engineer's intent is to consider alternative products which have the desired essential characteristics. The Engineer will consider any such products offered. Requests for acceptance of alternative products shall be made through Bidders bidding as Prime Contractors. Acceptances for substitutions will not be granted directly to Suppliers, distributors, or Subcontractors. Pursuant to Section 133-3, General Statutes of North Carolina, the following procedures shall be used:

Bidders desiring to submit alternative product proposals for prior acceptance of the Engineers shall submit, in writing, such proposals from _____ until _____.

Applications received after this time will not be reviewed. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute, including drawings, cuts, performance and test data, and other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment, or other work that incorporation of the substitute would require shall be included. The Engineer shall consider and either accept or reject all alternative product proposals submitted.

If, by the close of the fifth day prior to the deadline for receiving Bids, the Engineer has accepted any alternative product proposals, the Bidding Documents shall be modified to include the alternative products. The Engineer shall publish the modification in an Addendum at least 5 days prior to the deadline for receiving Bids. The Engineer's decision of acceptance or rejection of a proposed substitute shall be final.

ARTICLE 11 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

11.01. If the Bidding Documents require the identity of certain Subcontractors, Suppliers, and other individuals or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within 3 days after the Bid opening submit to Owner the List of Subcontractors, completed with names of all such Subcontractors, Suppliers, and other individuals and entities proposed for those portions of the Work for which such identification is required. The list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If, after due investigation, Owner or Engineer has reasonable objection to any proposed Subcontractor, Supplier, or other individual or entity, Owner may, before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute without an increase in the Bid.

11.02. If the apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, and other individuals and entities. Declining to make requested substitutions will not constitute grounds for sacrificing the bid security of any Bidder. Any Subcontractor, Supplier, or other individual or entity listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer, subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

11.03. Contractor shall not be required to employ any Subcontractor, individual, or entity against whom Contractor has a reasonable objection.

11.04. All Subcontractors shall be a licensed contractor in the State of North Carolina.

ARTICLE 12 - PREPARATION OF BIDS

12.01. The Bid Forms indicated in the Table of Contents are bound in the Bidding Documents and shall not be removed therefrom unless otherwise specified. Bids must be completed in ink.

12.02. All blanks in the Bid Form shall be filled. A bid price shall be indicated for each unit price item listed therein, or the words "No Bid", "No Charge", "No Change", or other appropriate phrase shall be entered.

12.03. A Bid by a corporation shall be executed in the corporate name by the president or the vice-president or by another corporate officer, accompanied by evidence of authority to sign for the corporation.

12.04. A Bid by a partnership shall be executed in the partnership name and signed by a partner, accompanied by evidence of authority to sign.

12.05. A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm shall be shown below the signature.

12.06. A Bid by an individual shall show the Bidder's name.

12.07. A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form.

12.08. The names of all persons signing shall be legibly printed below their signatures. A Bid by a person who affixes to its signature the word "president", "secretary", "agent", or other designation without disclosing its principal may be held to be the Bid of the individual signing. When requested by Owner, evidence of the authority of the person signing shall be furnished.

12.09. The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers and dates of which shall be filled in on the Bid Form.

12.10. No alterations in Bids by erasures, interpolations, or otherwise, will be acceptable unless each such alteration is signed or initialed by Bidder; if initialed, Owner may require Bidder to identify any alteration so initialed.

ARTICLE 13 - BASIS OF BID; EVALUATION OF BIDS

13.01. Bidder shall complete the schedule of unit prices included in the Bid Form and shall accept all fixed unit prices listed therein.

The total Bid will be determined as the sum of the products of the estimated quantity of each item and the unit price bid for the item. The final quantities and Contract Price will be determined in accordance with Paragraph 11.03 of the General Conditions.

Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

13.02. The Contingency is to be added to the Bid Price and is to be used for minor change order items. If the Contingency is to be used, a scope of work and price would be negotiated. The Contingency is for the sole use of Owner. A change order will be issued to delete any unauthorized portion of the Contingency.

ARTICLE 14 - SUBMISSION OF BID

14.01. Bids shall be submitted at the time and place indicated in the Invitation to Bid, or at the modified time and place indicated by Addendum. Bids shall be enclosed in an opaque, sealed envelope or wrapping, addressed to:

*** * * TO BE COMPLETED FOR EACH PROJECT * * ***

14.02. Bids shall be marked with the name, license number, and address of the Bidder and shall be accompanied by the Bid security and other required documents. If the Bid is sent through the mail or by other delivery system, the sealed envelope shall be enclosed in a separate envelope, with the notation "BID ENCLOSED" on the face of it.

14.03. Each bid envelope shall be identified on the outside with the words "Bid for _____".

14.04. Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.

14.05. One copy of the Project Manual that contains the Bid Form must be submitted with the Bid.

14.06. Oral, telephone, facsimile, or telegraph Bids are invalid and will not receive consideration.

14.07. No Bidder may submit more than one Bid. Multiple Bids under different names will not be accepted from one firm or association.

14.08. A conditional or qualified Bid will not be accepted.

ARTICLE 15 - MODIFICATION AND WITHDRAWAL OF BID

15.01. A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

15.02. If, within 24 hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security will be returned. Thereafter, if the Work is re-bid, that Bidder will be disqualified from further bidding on the Work.

ARTICLE 16 - OPENING OF BIDS

16.01. Bids will be publicly opened at the time and place indicated in the Invitation to Bid and, unless obviously non-responsive, read aloud. An abstract of the amounts of the Base Bids and major alternatives (if any) will be made available to Bidders after the opening of Bids.

16.02. The procedure for opening Bids will follow guidelines issued by the State Building Commission dated December 10, 1990, and endorsed by the Consulting Engineers Council of North Carolina.

ARTICLE 17 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

17.01. All Bids shall remain subject to acceptance for the number of days set forth in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of that period.

ARTICLE 18 – MINORITY BUSINESS PARTICIPATION DOCUMENTATION

18.01. The Minority Business Participation goal is established under the Owners Outreach / Minority Participation Plan. This goal is applicable for all construction projects required to have verifiable percentage goals under G.S. 143-128.2(a). In accordance with Section 143-128.2, General Statutes of North Carolina, all bidders are required to provide information relative to minority business enterprises that will be used as construction subcontractors, vendors, suppliers or providers of professional services for the proposed project. This information must be provided with the bid by completing the “Identification of Minority Business Participation” form that is included with the Bid documents.

The total dollar value of the Bid that is to be performed by Minority business contracting must also be included on the form. Also included with the bid documents is Affidavit A and Affidavit B. Each bidder must complete Affidavit A (Listing of Good Faith Efforts) that outlines the good faith efforts made to comply with the minority business participation requirements for the proposed project. If a bidder intends to perform 100% of the Work with its own forces, then Affidavit B (intent to Perform Contract With Own Workforce) must be completed and submitted instead of Affidavit A.

ARTICLE 19 - AWARD OF CONTRACT

18.01. Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsive. Owner may also reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work, and to negotiate contract terms with the Successful Bidder.

18.02. More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

18.03. In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternatives, unit prices, and other data as may be requested in the Bid Form or prior to the Notice of Award.

18.04. In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Bidding Documents. Owner also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data are required to be submitted prior to the Notice of Award.

18.05. Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, and other individuals or entities to perform and furnish the Work in accordance with the Contract Documents.

18.06. If the Contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of Owner.

18.07. The evaluation of Suppliers' or manufacturers' data submitted with the Bid, or submitted upon request prior to the Notice of Award, will include consideration of the following:

Owner-required inventory of spare parts.

Building design changes which would be required to accommodate the proposed materials and equipment.

Installation requirements and related engineering, training, and operating costs.

Experience and performance record of the Supplier or the manufacturer.

Maintenance and frequency of inspections required to ensure reliable performance of the equipment.

The Supplier's or the manufacturer's service facilities and availability of qualified field service personnel.

Efficiency and related operating expense during the anticipated useful life of the equipment.

ARTICLE 20 - CONTRACT SECURITY AND INSURANCE

19.01. The Supplementary Conditions set forth Owner's requirements as to Performance and Payment Bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it shall be accompanied by such Bonds.

ARTICLE 21 - SIGNING OF AGREEMENT

20.01. When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by four unsigned counterparts of the Agreement, with all other Contract Documents which are identified in the Agreement as attached thereto. Within the number of days set forth in the Bid Form, the Successful Bidder shall sign, leaving the dates blank, and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds and power of attorney. Within 30 days thereafter, Owner shall execute all copies of

the Agreement and other Contract Documents submitted by Contractor (Successful Bidder); shall insert the date of contract on the Agreement, Bonds, and power of attorney; and shall distribute signed copies as stipulated in the Agreement. Each counterpart is to be accompanied by a complete set of the Drawings, with appropriate identification.

ARTICLE 22 - SALES AND USE TAXES

21.01. Provisions for sales and use taxes, if any, are set forth in the Supplementary Conditions.

ARTICLE 23 - RETAINAGE

22.01. Provisions concerning retainage are set forth in the Agreement.

ARTICLE 23 - LAWS AND REGULATIONS

23.01. Modifications, if any, to the General Conditions concerning Laws and Regulations are set forth in the Supplementary Conditions. Additional provisions, if any, concerning Laws and Regulations are set forth in the Agreement.

23.02. In accordance with Section 112(c) of Title 23 USC, and G.S. 75-5(b)(7) of the State of North Carolina, the Contractor (Bidder), by submission and execution of this Bid, certifies that he has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with his bid on this project.

23.03. Bidder shall complete and submit with the Bid the certification pertaining to debarment included with the Bid Forms. Debarment certification requirements are set forth in the Supplementary Conditions.

End of Section

BID FORM

PROJECT IDENTIFICATION:

***** TO BE COMPLETED FOR SPECIFIC PROJECT *****

THIS BID IS SUBMITTED TO:

***** TO BE COMPLETED FOR SPECIFIC PROJECT *****

1.01. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2.01. Bidder accepts all of the terms and conditions of the Invitation to Bid and the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the day of bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner. Bidder will sign and submit the Agreement with the Bonds and other documents required by the Bidding Documents within 10 days after the date of Owner's Notice of Award.

3.01. In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

No. _____ Dated _____

No. _____ Dated _____

No. _____ Dated _____

No. _____ Dated _____

No. _____ Dated _____

B. Bidder has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except underground facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions, and reports and drawings of a hazardous environmental condition, if any, which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at or contiguous to the site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto..

F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid or performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.

G. Bidder is aware of the general nature of Work to be performed by Owner and others at the site that relates to the Work indicated in the Bidding Documents.

H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

K. Bidder further represents that this Bid is genuine and is not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

4.01. Bidder will complete the Work for the following unit prices, computed in accordance with Paragraph 11.03.B of the General Conditions. Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids, and that final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

**UNIT PRICE SCHEDULE
(SEWERS)**

- ** TO BE EDITED FOR SPECIFIC PROJECT ** -

SEWERS					
No.	Item	Unit	Quantity	Unit Price	Item Total
1	Mobilization	LS			
2	PVC Sewer				
2A	_____ - inch PVC Sewer, as specified, complete in place				
2.A.1	0' – 6' Depth	LF			
2.A.2	6' – 8' Depth	LF			
2.A.3	8' – 10' Depth	LF			
2.A.4	10' – 12' Depth	LF			
2.A.5	12' – 14' Depth	LF			
2B	_____ - inch PVC Sewer, as specified, complete in place ** (Insert different pipe sizes and/or additional depth classifications, as needed)**				
3	DIP Substitution, as specified, complete in place (Add on to Item 2)				
3A	_____ - inch Ductile Iron Pipe *** (Insert additional items for different size pipe – items 2 and 3) ***	LF			
4	Trenchless Crossing – furnished and installed, as specified, complete in place:				
4A	_____ - inch diameter casing (t = _____), bore and jack, and _____ - inch ductile iron carrier pipe.	LF			
4B	_____ - inch diameter tunnel or casing (t = _____) and _____ - inch ductile iron carrier pipe. Guaranteed Trenchless Crossing – furnished and installed, as specified, complete in place	LF			
4C	_____ - inch diameter tunnel or casing (t = _____), and _____ - inch ductile iron carrier pipe *** (If majority of trenchless crossing is in rock, use item 5. If not use item 4) ***	LF			
5	Tie to Existing Sewer System	EA			
6	Standard Manholes				
6A	4' – 0" Diameter	EA			
6B	5' – 0" Diameter	EA			
7	Manhole Additional Depth				
7A	4' – 0" Diameter	VF			
7B	5' – 0" Diameter	VF			

8	Drop Manhole Connections	
8A	Inside Drop Connections - 0' – 3' Depth	EA
8B	Outside Drop Connections – 0' -3' Depth	EA
8C	Extra Depth - Inside / Outside Drop Connections	VF
9	Vent Pipe	EA
10	4" Sewer Lateral Installation	
10A	4" Service Connection to Mainline	EA
10B	4" Service Connection to Manhole at Invert	EA
10.B.1	4" Inside Drop Connection 0' – 3' depth, including Bend & Tee	EA
10.B.2	4" Inside Drop Connection – Extra Depth	VF
10C	4" PVC Lateral	LF
10D	4" Dry Bore PVC	LF
10E	4" Cleanout	EA
10F	4" DIP Substitution (Add on to items 11.A,B,C,D, and E)	LF
11	6" Sewer Lateral Installation	
11A	6" Service Connection to Mainline	EA
11B	6" Service Connection to Manhole at Invert	EA
11.B.1	6" Inside Drop Connection 0' – 3' depth, including Bend & Tee	EA
11.B.2	6" Inside Drop Connection – Extra Depth	VF
11C	6" PVC Lateral	LF
11D	6" Dry Bore PVC	LF
11E	6" Cleanout	EA
11F	6" DIP Substitution (Add on to items 12.A,B,C,D, and E)	LF
12	Stone Driveway / Mailbox Pull-off Replacement	SY
13	Asphalt Driveway Replacement	SY
14	Concrete Driveway Replacement	SY
15	Stone Roadway Replacement	SY
16	Asphalt Roadway Replacement	SY
17	Stabilization Stone	CY
18	Clearing, Grubbing, and Disposal of Debris	LF
19	Seeding and Mulching	LF
20	Sedimentation and Erosion Control Devices	
20A	Temporary Check Dams	EA
20B	Sediment Fencing	LF
20C	Inlet Protection	EA
20D	Temporary Diversion Ditches	LF
20E	Temporary Construction Exit	EA
20F	Temporary Stream Crossings	EA
20G	Erosion Control Matting	SY

20H	Rip – Rap	SY
21	Remove and Replace Storm Drains	LF
22	Anti-Seep Collars	EA
23	Rock Excavation (Remove Rock Excavation item for all WSACC Projects)	CY
24	Pumping Station Construction	LS
25	Air Relief Valves	
25A	6" Air Relief Valve	EA
26	Plugging Existing Abandoned Sewers	EA
27	Abandoning Existing Manholes	EA
28	Abandonment of Pump Stations	EA
29	Closed Circuit TV of Sewer	LF

Sewer Bid
5% Contingency
Total Sewer Bid

The Contingency is to be used for minor change order items authorized by the Owner.

UNIT PRICE SCHEDULE (WATERLINE)

* * * TO BE EDITED FOR SPECIFIC PROJECT * * *

WATERLINE					
No.	Item	Unit	Quantity	Unit Price	Item Total
1	Mobilization	LS			
2	Watermains				
2A	2" PVC	LF			
2B	6" PVC	LF			
2C	8" PVC	LF			
3	Water Main Pipe Material Substitution (Add on to Item 2)				
3A	____ - inch ductile iron pipe	LF			
3B	____ - inch Restrained Joint ductile iron pipe	LF			
4	Connection to Existing (Water) Main *** (Insert additional items for different size pipe - items 2, 3, and 4)***	LS			
5	Trenchless Crossing - furnished and installed, as specified, complete in place:				
5A	____ - inch diameter casing (t=), bore and jack	LF			
5B	____ - inch diameter casing (t=), tunnel / casing	LF			
5C	____ - inch diameter Dry Bore, without steel encasement pipe	LF			
5D	____ - inch Guaranteed Trenchless Crossing, furnished and installed, complete in place.	LF			

**** (If majority of trenchless crossing is in rock, use item 5D. If not, use item 5A, 5B, or 5C)****

6	Punch for 2-inch Water Main(s)	LF
7	Ductile Iron Pipe (DIP) Fittings	LBS
8	Main Line Valves and Valve Boxes	
8A	____ - inch Gate Valves and Valve Boxes	EA
8B	____ - inch Butterfly Valves and Valve Boxes	EA
9	Tapping Sleeves and Valves	EA
9A	6" x 16"	EA
9B	8" x 16"	EA
10	Extension Stems	VF
11	Permanent 2-inch Blow Off(s)	EA
12	Air Relief Valves	EA
12A	6" Air Relief Valve	EA
13	Water Services	
13A	2" x 3/4" - Open Cut Long Side	EA
13B	2" x 3/4" - Open Cut Short Side	EA
13C	2" x 3/4" - Dry Bore Long Side	EA
13D	6" x 3/4" - Open Cut Long Side	EA
13E	6" x 3/4" - Open Cut Short Side	EA
13F	6" x 3/4" - Dry Bore Long Side	EA
13G	8" x 3/4" - Open Cut Long Side	EA
13H	8" x 3/4" - Open Cut Short Side	EA
13 I	8" x 3/4" - Dry Bore Long Side	EA
14	Fire Hydrants	EA
15	Fire Hydrant Extensions	VF
16	Stone Driveway / Mailbox Pull-off Replacement	SY
17	Asphalt Driveway Replacement	SY
18	Concrete Driveway Replacement	SY
19	Stone Roadway Replacement	SY
20	Asphalt Roadway Replacement	SY
21	Stabilization Stone	CY
22	Seeding and Mulching	LF
23	Sedimentation and Erosion Control Devices	
23A	Temporary Check Dams	EA
23B	Sediment Fencing	LF
23C	Inlet Protection	EA
23D	Temporary Diversion Ditches	LF
23E	Temporary Construction Exit	EA
23F	Temporary Stream Crossings	EA
23G	Erosion Control Matting	SY
23H	Rip - Rap	SY
24	Remove and Replace Storm Drains	LF
25	Abandonment of wells or existing watermains:	
25A	Wells	LS
25B	Waterlines	LF

**Waterline Bid
5% Contingency**

Total Waterline Bid

The Contingency is to be used for minor change order items authorized by the Owner.

***** EDIT FOR SPECIFIC PROJECT *****

COMBINATION OF SECTIONS

The undersigned Bidder hereby agrees to accept an award of contract based on any individual section. However, if awarded two or more sections, the undersigned Bidder agrees to deduct from all prices named in those sections the following percentages:

If Awarded:

Combination of Sections ____, ____, and ____, deduct _____ percent.

Combination of Sections ____, ____, and ____, deduct _____ percent.

Combination of Sections ____, ____, and ____, deduct _____ percent.

5.01. Bidder agrees that all excavation is unclassified.

***** EDIT FOR SPECIFIC PROJECT *****

| 5.02. Bidder agrees that the Work will be substantially completed within _____ days, and completed and ready for final payment in accordance with Paragraph 14.07.B of the General Conditions within _____ days, after the commencement of Contract Times as defined in the General Conditions.

| 5.02. Bidder agrees that the Work will be substantially completed by _____, 20____, and completed and ready for final payment in accordance with Paragraph 14.07.B of the General Conditions on or before _____, 20____.

| 5.03. Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified above.

| 6.01. Communications concerning this Bid shall be sent to Bidder at the following address:

7.01. The terms used in this Bid have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

SIGNATURE OF BIDDER

Contractor's License Number _____

License Expiration Date _____

If an Individual

By _____
(signature of individual)

doing business as _____

Business address _____

Phone No. _____

Date _____, 20_____

ATTEST _____ TITLE _____

If a Partnership

By _____
(firm name)

(signature of general partner)

Business address _____

Phone No. _____

Date _____, 20_____

ATTEST _____ TITLE _____

If a Corporation

By _____
(corporation name)

By _____
(signature of authorized person)

(title)

Business address _____

Phone No. _____

Date _____, 20____

ATTEST _____ TITLE _____

(SEAL)

If a Joint Venture (Other party must sign below.)

Contractor's License Number _____

License Expiration Date _____

If an Individual

By _____
(signature of individual)

doing business as _____

Business address _____

Phone No. _____

Date _____, 20____

ATTEST _____ TITLE _____

If a Partnership

By _____
(firm name)

(signature of general partner)

Business address _____

Phone No. _____

Date _____, 20____

ATTEST _____ TITLE _____

If a Corporation

By _____
(corporation name)

By _____
(signature of authorized person)

(title)

Business address _____

Phone No. _____

Date _____, 20____

ATTEST _____ TITLE _____

(SEAL)

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

(see note 1) _____

_____ as Principal, and hereinafter called the Principal, and (see note 2) _____

_____, a corporation duly organized under the State of _____, as Surety, hereinafter called the Surety, are

hereby held and firmly bound unto THE WATER AND SEWER AUTHORITY OF CABARRUS COUNTY, NC as OWNER, hereinafter called the Owner, in the penal

sum of (5 % of Base Bid Amount) _____

(\$ _____) in lawful money of the United States for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

Signed, this _____ day of _____, 20_____

The Condition of the above obligation is such that whereas the Principal has submitted to the OWNER a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing, for the _____

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contact in the Form of Contract attachment hereto (properly completed in accordance with said BID) and shall furnish a BOND for faithful performance of said contract, and for the payment of all persons performing labor furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for

any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

ATTEST:

Secretary

Principal (see note 3)

By _____

[SEAL]

Address

Witness as to Principal

Address

ATTEST:

Witness as to Surety

Surety

Attorney-in-Fact

Address (see note 4)

Notes:

- (1) Correct name of Contractor, (Corporation, Partnership, or Individual, as applicable)
- (2) Name of Surety
- (3) If Contractor is a partnership, all partners must execute bond.
- (4) Surety - Power of Attorney must be attached.

GENERAL CONTRACTOR QUESTIONNAIRE

The undersigned warrants the truth and accuracy of all statements and answers herein contained.

- 1. How many years has your organization or firm been in business as a (circle one) General Contractor, Subcontractor?

- 2. Describe and give the date and owner of the last project that your organization or firm has completed similar in type, size, and nature as the one proposed.

- 3. Within the last 10 years has your organization or firm failed to completed work awarded to you? If so, where and why?

- 4. Provide the names of three (3) the entities, together with individual contacts, for which you have performed construction work (include current telephone numbers).

- 5. Has representatives from your organization or firm conducted a visit to the site of the proposed work? If so, describe any anticipated problems and any recommended solutions.

- 6. Will you Subcontract any part of this Work? If so, describe the parts that will be subcontracted.

7. Please list the names and addresses of the subcontractors to be used for the parts of the Work as described in Question No. 6 above.

8. List the following in connection with the Surety which is providing the Bid Bond:
Surety's Name:

Surety's Address:

9. List the name and address of Surety's resident agent (include phone number) for service of process in North Carolina:

NAME OF FIRM

SIGNATURE OF AUTHORIZED OFFICIAL

TITLE

MBE INSTRUCTIONS (AFFIDAVITS A & B)**MINORITY BUSINESS PARTICIPATION AFFIDAVITS (A & B), AND
IDENTIFICATION FORM
(REQUIRED WITH INITIAL BID)**

The Minority Business Participation goal established by under the Water and Sewer Authority of Cabarrus County (WSACC) Outreach Plan is 10%. This goal is applicable for all WSACC construction projects required to have verifiable percentage goals under G.S. 143-128.2(a).

In accordance with Section 143-128.2, General Statutes of North Carolina, all bidders are required to provide information relative to minority business enterprises that will be used as construction subcontractors, vendors, suppliers or providers of professional services for the proposed project. This information must be provided with the bid by completing the "Identification of Minority Business Participation" form that is included with the Bid documents. The total dollar value of the Bid that is to be performed by Minority business contracting must also be included on the form.

Also included with the bid documents is Affidavit A and Affidavit B. Each bidder must complete Affidavit A (Listing of Good Faith Efforts) that outlines the good faith efforts made to comply with the minority business participation requirements for the proposed project. If a bidder intends to perform 100% of the Work with its own forces, then Affidavit B (intent to Perform Contract With Own Workforce) must be completed and submitted instead of Affidavit A.

Requirements for MBE participation is outlined in the "Special Conditions" part of the front-end of these contract documents. Bidder is instructed to read this information carefully prior to completing and submitting the bid.

Please note that submittal and proper completion of the required minority business participation forms must be provided in order for the bid to be considered responsive.

MBE INSTRUCTIONS (AFFIDAVITS C & D)**MINORITY BUSINESS PARTICIPATION AFFIDAVITS (C & D)
(REQUIRED BY THE APPARENT LOW BIDDER)**

Within 72 hours of notification of being the apparent lowest responsible, responsive bidder (time period can be extended by owner if determined to be appropriate), Bidder shall file either Affidavit C or Affidavit D as follows:

If the portion of the Work for the proposed project to be performed by minority business enterprises equals 10% or more of the total contract price, then Affidavit C must be completed and submitted by the Bidder. This affidavit shall give rise to the presumption that the Bidder has made the required good faith effort.

If the portion of the Work for the proposed project to be performed by minority business enterprises is less than 10% of the total contract price, then Affidavit D must be completed and submitted by the Bidder. The document must be supplemented by evidence of all good faith efforts that were implemented, including advertisements, solicitations, and other specific actions taken demonstrating recruitment and selection of minority business enterprises for participation in the contract.

If Affidavit "B" (self-performance of work) was submitted with bid, then sufficient information must be provided to demonstrate that the bidder does not customarily subcontract on this type of project.

Requirements for MBE participation is outlined in the "Special Conditions" part front-end of these contract documents. Bidder is instructed to read this information carefully prior to completing and submitting the bid.

Following contract award, the contractor will be required to provide a finalized listing of the minority business enterprises that will be participating in the project.

Please note that submittal and proper completion of the required minority business participation forms must be provided in order for the bid to be considered responsive.

Identification of Minority Business Participation

State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of _____

(Name of Bidder)

Affidavit of _____

I have made a good faith effort to comply under the following areas checked:

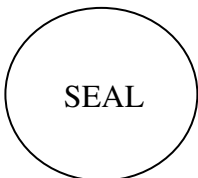
Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____
Signature: _____
Title: _____



State of North Carolina, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public _____
My commission expires _____

Identification of Minority Business Participation

State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract

with Own Workforce.

County of _____

Affidavit of _____

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

_____ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

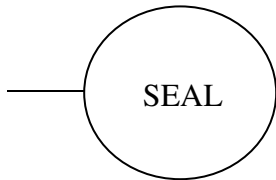
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

Identification of Minority Business Participation

State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of Cabarrus

Affidavit of (Name of Bidder)

I have made a good faith effort to comply under the following areas checked:

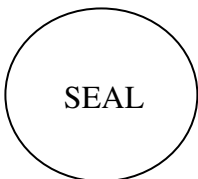
Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 1 - (10 pts) Contacted minority businesses that reasonably could have been expected to submit a quote...
2 --(10 pts) Made the construction plans, specifications and requirements available for review...
3 - (15 pts) Broken down or combined elements of work into economically feasible units...
4 - (10 pts) Worked with minority trade, community, or contractor organizations...
5 - (10 pts) Attended prebid meetings scheduled by the public owner.
6 - (20 pts) Provided assistance in getting required bonding or insurance...
7 - (15 pts) Negotiated in good faith with interested minority businesses...
8 - (25 pts) Provided assistance to an otherwise qualified minority business...
9 - (20 pts) Negotiated joint venture and partnership arrangements...
10 - (20 pts) Provided quick pay agreements and policies...

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: Name of Authorized Officer: Signature: Title:



State of North Carolina, County of
Subscribed and sworn to before me this day of 20
Notary Public
My commission expires

Identification of Minority Business Participation

State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract with Own Workforce.

County of Cabarrus

Affidavit of _____ (Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

contract. _____ (Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

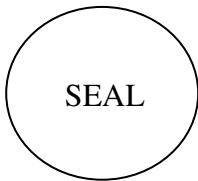
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__

Notary Public _____

My commission expires _____

State of North Carolina - AFFIDAVIT C - Portion of the Work to be Performed by Minority Firms

County of _____

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by minority businesses as defined in GS143-128.2(g) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of _____ I do hereby certify that on the _____
(Name of Bidder)

Project ID# _____ (Project Name) Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Phone Number	*Minority Category	Work description	Dollar Value

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

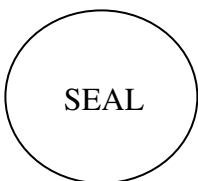
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

State of North Carolina

AFFIDAVIT D – Good Faith Efforts

County of _____

If the goal of 10% participation by minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

(Name of Bidder)

Affidavit of: _____

I do certify the attached documentation as true and accurate representation of my good faith efforts.

(Attach additional sheets if required)

Name and Phone Number	*Minority Category	Work description	Dollar Value

*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions.

Examples of documentation include, but are not limited to, the following evidence:

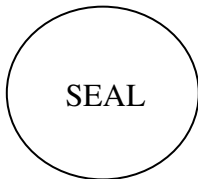
- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

NON-COLLUSIVE AFFIDAVIT

State of _____

County of _____

_____ being first duly sworn, deposes and says that:

- (1) He is the _____, of
 (Owner, Partner, Officer, Representative or Agent)
 _____ the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Bid in connection with the Work for which the attached Bid has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit, or cost elements of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affidavit.

BY: _____
SIGNATURE OF AUTHORIZED OFFICIAL

(TITLE)

Sworn and subscribed before me this

_____ day of _____, 20_____

NOTARY PUBLIC

My Commission Expires: _____

DEBARMENT CERTIFICATION

CONTRACT NO. _____

CONTRACT TITLE _____

The undersigned hereby certifies that the firm of _____ has not been suspended by the State of North Carolina or any agency or department thereof for conviction or indictment or any of the offenses enumerated in G.S 133-27 nor will award subcontracts of any tier to firms that have been suspended for conviction or indictment of any of the offences enumerated in G. S. 133-27.

NAME OF FIRM

ATTEST _____ (SEAL)

SIGNATURE OF AUTHORIZED OFFICIAL

TITLE

Sworn and subscribed before me this

_____ day of _____, 20_____

NOTARY PUBLIC

My Commission Expires : _____

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

CONTRACT TITLE: _____

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
(e) Have not been suspended by the State of North Carolina or any agency or department thereof for conviction or indictment or any of the offenses enumerated in G.S 133-27 nor will award subcontracts of any tier to firms that have been suspended for conviction or indictment of any of the offenses enumerated in G. S. 13327.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

NOTICE OF AWARD

Dated: _____

TO: _____

PROJECT: _____

CONTRACT FOR: _____

You are notified that your Bid dated _____ for the above Contract has been considered. You are the apparent successful Bidder and have been awarded a contract for:

The Contract Price of your contract is _____

You must comply with the following conditions precedent within fifteen (15) days of the date of this Notice. Please note that minority business participation Affidavit requirement listed in condition No. 4 must be submitted within 72 hours following receipt of this Notice.

1. Execute four (4) copies of the Agreement. Do not date the Agreements or bonds; the OWNER will accomplish this upon execution of the contracts. Submit a power of attorney authorizing OWNER to date bonds and Agreements.
2. Submit four (4) copies of the Performance-Payment Bonds. Instructions to the Surety and the Principal for execution of the bonds are as follows:

Where the CONTRACTOR is a Corporation, the Agreement and any bonds must be executed by the President or the Chairman of the Board of the corporation. The Agreement or Bond is accompanied by a statement certified by a Secretary of the Corporation. The signatures of the persons executing the bond on behalf of the Principal and of the Surety, respectively, shall each be dated on the signature line. If the bond is executed by an Attorney-in-Fact for the Surety, the accompanying Power of Attorney must be executed by persons whose authority to do so is plainly identified on the face of the Power of Attorney.

Neither signatures nor the Corporate Seal may appear by facsimile unless the authority for them to appear in that form is plainly disclosed on the face of the document. The Secretary of other properly authorized Officer must certify and seal a statement declaring that the authority granted by the Power of Attorney remained in force on the date that the bond was executed by the Attorney-in-Fact.

3. Include four (4) copies of the Certificate of Insurance. The Certificate must name the OWNER as additional insureds and the standard cancellation clause must read as follows:

“Should any of the above described policies be canceled or changed by restricted amendment before the expiration date thereof, the issuing Company will give thirty (30) days written notice to the below named certificate holder.”

- 4. Submit to OWNER AFFIDAVIT C or D relating to Minority Business participation, within 72 hours of receiving this Notice. Affidavit D must be supplemented by evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and specific actions demonstrating recruitment and selection of minority business enterprises for participation in the contract.

Failure to comply with these conditions within the time specified will entitle OWNER to consider all your rights arising out of the Owner's acceptance of your Bid as abandoned and as a forfeiture of you Bid Bond. The Owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of his Notice of Award to the Owner. Within thirty (30) days after you comply with the above conditions, the Owner will return to you one fully signed counterpart of the Contract Documents attached.

If you have any questions, please do not hesitate to contact this office.

Sincerely,

Water and Sewer Authority of Cabarrus County

(Authorized Signature)

(Printed Name and Title of Above Signer)

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged by _____, this the _____ day of _____, 20__

By _____

Title _____

(Note: The following standard form will be used for preparation of)
(of the Agreement, after award of contract.)

AGREEMENT

THIS AGREEMENT is by and between _____
_____ (herein called Owner) and
_____ (herein called Contractor).

Owner and Contractor, in consideration of the mutual covenants herein set forth, agree as follows:

| ARTICLE 1 - WORK.

| 1.01. Contractor shall complete all Work as specified or indicated in the Contract Documents based on the acceptance by Owner of Contractor's Bid.

| 1.02. The Work is generally described as follows:

***** INSERT EXACT SAME DESCRIPTION AS INDICATED IN ***
INSTRUCTIONS TO BIDDERS AND
PROJECT REQUIREMENTS.**

| ARTICLE 2 - ENGINEER.

| 2.01. The Project has been designed by _____

_____,
who is referred to in the Contract Documents as Engineer. Engineer, and its
duly authorized agents, are to act as Owner's representatives, assume all duties
and responsibilities, and have the rights and authority assigned to Engineer in
the Contract Documents in connection with completion of the Work in
accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIMES, LIQUIDATED DAMAGES, DELAYS AND DAMAGES, DELAY COMPENSATION.

3.01. Time of the Essence.

A. All time limits for Substantial Completion and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

***** EDIT FOR SPECIFIC PROJECT *****

3.02. Days to Achieve Substantial Completion and Final Payment.

A. The Contract Times shall be as indicated in the Contractor's Bid. The Work will be substantially completed within the number of days indicated in the Contractor's Bid from the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07.B of the General Conditions within the number of days indicated in the Contractor's Bid from the date when the Contract Times commence to run.

A. The Contract Times shall be as indicated in the Contractor's Bid. The Work will be substantially completed on or before the date indicated in the Contractor's Bid, and completed and ready for final payment in accordance with Paragraph 14.07.B of the General Conditions on or before the date indicated in the Contractor's Bid.

***** THE AMOUNT OF LIQUIDATED DAMAGES SHALL BE ***
 DETERMINED BY OWNER. IN ALL CASES, THE
 AMOUNT OF LIQUIDATED DAMAGES SHALL NOT
 BE LESS THAN \$200.00 PER DAY.**

3.03. Liquidated Damages.

A. Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 3.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner \$_____ for each day that expires after the time specified

in Paragraph 3.02 for Substantial Completion until the Work is substantially completed. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times or any proper extension thereof granted by Owner, Contractor shall pay Owner \$_____ for each day that expires after the time specified in Paragraph 3.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

B. In case of joint responsibility for delay in the completion of the Work, where two or more separate contracts are in force at the same time and cover work at the same site, liquidated damages assessed against any one Contractor will be based upon the individual responsibility of that Contractor for the delay as determined by, and in the judgment of, Engineer.

C. Owner shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to Contractor, or to initiate applicable dispute resolution procedures and recover liquidated damages for nonperformance of this Contract within the time stipulated.

3.04. Delays and Damages.

A. In the event Contractor is delayed in the prosecution and completion of the Work because of any delays caused by Owner or Engineer, and except as set forth in Paragraph 4.01 of the General Conditions, Contractor shall have no claim against Owner or Engineer for damages or contract adjustment other than an extension of the Contract Times and the waiving of liquidated damages during the period occasioned by the delay.

ARTICLE 4 - CONTRACT PRICE.

4.01. Owner shall pay Contractor in current funds, for completion of the Work designated in Article 1 in accordance with the Contract Documents, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in the Contractor's Bid, for the total amount of:

_____ (\$ _____)
(words) (figures)

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03 of the General Conditions.

| ARTICLE 5 - PAYMENT PROCEDURES.

| 5.01. Submittal and Processing of Payments.

| A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

***** TO BE EDITED FOR SPECIFIC PROJECT *****

| 5.02. Progress Payments; Retainage.

| A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the _____ day of each month during construction. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in Division 1, General Requirements.

| B. Prior to Substantial Completion, Owner will retain from progress payments, less the aggregate of payments previously made and less such amounts as Engineer shall determine or Owner may withhold in accordance with Paragraph 14.02.B.5 of the General Conditions, an amount equal to the following percentages:

- | 1. Until the Work is 50 percent completed, retainage will be 10 percent of Work completed.
- | 2. If the Work is 50 percent completed as determined by Engineer, and if the character and progress of the Work are satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of Work completed.
- | 3. Retainage will be 10 percent of the value of materials and equipment that are not incorporated in the Work but are delivered, suitably stored, and accompanied by documentation satisfactory to Owner as provided in Paragraph 14.02.A.1 of the General Conditions. Stored materials and equipment retainage will be released when the materials and equipment are incorporated in the Work.

Upon Substantial Completion, Owner may release a portion of the retainage to Contractor, retaining at all times an amount sufficient to cover the cost of the Work remaining to be completed.

The termination of additional retainage will not be initiated if the Work is behind schedule; and, subsequent to reducing retainage, the full retainage of payments authorized may be reinstated any time the Work falls behind schedule.

Consent of the Surety shall be obtained before retainage is paid by Owner. Consent of the Surety, signed by an agent, must be accompanied by a certified copy of such agent's authority to act for the Surety.

| 5.03 Final Payment.

| A. Upon completion and acceptance of the Work in accordance with Paragraph 14.07.A of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in Paragraph 14.07.B.

| ARTICLE 6 - CONTRACT DOCUMENTS.

| A. The Contract Documents which comprise the entire agreement between Owner and Contractor concerning the Work consist of the following:

- | 1. This Agreement.
- | 2. Performance and Payment Bonds.
- | 3. General Conditions.
- | 4. Supplementary Conditions.
- | 5. Special Conditions.
- | 6. Specifications.

7. Drawings consisting of _____ sheets, with each sheet bearing the following general title:

Sheet titles are listed on Sheet 1.

8. Addenda _____ through _____.

9. Exhibits to this Agreement, enumerated as follows:

a. Contractor's Bid.

b. Notice to Proceed.

c. Documentation submitted by Contractor prior to Notice of Award, marked Exhibit _____.

10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

a. Written Amendments.

b. Work Change Directives.

c. Change Orders.

11. Standard Specifications for Wastewater Collection and Water Distribution for Cabarrus County, current revision date _____.

B. There are no Contract Documents other than those listed in this Article.

C. The Contract Documents may be amended, modified, or supplemented only as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 7 - MISCELLANEOUS.7.01. Terms.

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

7.02. Assignment of Contract.

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law); and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

7.03. Successors and Assigns.

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents.

7.04. Severability.

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

7.05. Business Addresses.

- A. The business address of Contractor given herein and the address of Contractor's office in the vicinity of the Work are both hereby designated as the places to which all notices, letters, and other communication to Contractor will be mailed or delivered. The address of Owner appearing herein is hereby designated as the place to which all notices, letters, and other communication to Owner shall be mailed or delivered. Either party may change its address at any time by an instrument in writing delivered to Engineer and to the other party.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. One counterpart each has been delivered to Owner, Contractor, Surety, _____, and Engineer.

This Agreement will be effective on _____.

OWNER: _____

CONTRACTOR: _____

By _____

By _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

Approved as to Form:

Contractor's License No. _____

Expiration Date _____

Attorney for Owner

ATTEST:

(Contractor's Seal)

Secretary

ATTEST:

City Manager

Joint Venturer

CONTRACTOR: _____

By _____

Title: _____

Address for giving notices:

Contractor's License No. _____

Expiration Date _____

(Contractor's Seal)

To be submitted by apparent low bidder

LIST OF SUBCONTRACTORS

Within the time period specified by the Owner following bidding, the apparent Successful Bidder in compliance with the Instructions to Bidders and with the Supplementary Conditions, the undersigned submits the following names of Subcontractors to be used in performing the Work for the _____. The Subcontractors below are in addition to those listed on the MINORITY BUSINESS PARTICIPATION AFFIDAVIT "C".

Bidder certifies that all subcontractors listed are eligible to perform the Work.

<u>Subcontractor's Work</u>	<u>Subcontractor's Name</u>
<u>Excavation/Grading</u>	_____
<u>Concrete</u>	_____
<u>Electrical</u>	_____
<u>Roofing</u>	_____
<u>Paving</u>	_____
<u>Piping</u>	_____
<u>(Other)</u>	_____

NOTE: This form must be submitted after the bid opening in accordance with the Instructions to Bidders.

BIDDER'S NAME

SIGNATURE OF AUTHORIZED OFFICIAL

TITLE

PERFORMANCE BOND

BOND NO. _____

PROJECT: (Name) _____

Know all men, that we, _____ of _____ County of _____ Hereinafter called the "Contractor", or "Principal", and _____ of _____ County of _____ a corporation incorporated under the laws of the State of _____ hereinafter called the "SURETY", are held and firmly bound unto the Water and Sewer Authority of Cabarrus County, located in the State of North Carolina, hereinafter called the Authority, in the sum of _____ dollars (\$ _____) for the payment whereof the Principal and Surety or Sureties bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly, by this bond.

THE CONDITION OF THIS OBLIGATION is such that whereas the Contractor/Principal entered into a certain contract with the Authority, titled and numbered above and hereto attached.

NOW THEREFORE, if the principal shall well and truly perform and fulfill all undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Authority, with or without notice to the Surety, and during the life of any warranty as required under the contract, and shall also well and truly perform and fulfill any and all duly authorized modifications of said contract that may hereafter be made then, this obligation shall be null and void; otherwise, it shall remain in full force and effect. The Contractor/Principal shall also fully indemnify and save harmless the Authority from all cost and damage which the Authority may suffer by reason of failure to fulfill all of the above and shall fully reimburse and repay the Authority all outlay and expense which the Authority may incur in making good any such default.

And the said SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed under the Specifications accompanying the same, shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract, or to the work, or to the Specifications.

This Bond is executed under and pursuant to the General Statutes of North Carolina 44A-Sections 25-33 and amendments thereto and the same is made a part hereof.

SIGNED AND SEALED, THIS the _____ day of _____ 2005.

WITNESS AS TO CONTRACTOR – PRINCIPAL:

CONTRACTOR-PRINCIPAL (SEAL)

BY: _____
TITLE

ATTEST AS TO SURETY COMPANY:

SURETY COMPANY (SEAL)

BY: _____
AUTHORIZED AGENT OR ATTORNEY-IN-FACT

COUNTERSIGNED:

BY: _____
N.C. RESIDENT AGENT

IF BOND IS EXECUTED BY ATTORNEY-IN-FACT THEN THERE MUST BE ATTACHED TO THIS ACKNOWLEDGEMENT, A CERTIFIED COPY OF THE POWER-OF-ATTORNEY

ACKNOWLEDGEMENT FOR A SURETY COMPANY
OR OTHER CORPORATION

State of _____)
County of _____)

On this _____ day of _____, 20____ before me, a Notary Public in and for said County and State personally appeared _____ to me personally known, who, being by me duly sworn, says that he is the _____ of the _____

and that the seal affixed to the foregoing instrument in writing is the corporate seal of the company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given by its Board of Directors,

and the said _____

as such _____

duly acknowledged said instrument to be the free act and deed of said corporation.

AFFIANT

SWORN TO BEFORE ME THIS _____ DAY OF _____, 20____

NOTARY PUBLIC

MY COMMISSION EXPIRES THE _____ DAY OF _____, 20____
(AFFIX NOTARY SEAL)

PAYMENT BOND

BOND NO. _____

PROJECT: (Name) _____

Know all men, that we, _____ of _____ County of _____

Hereinafter called the "Contractor", or "Principal", and _____ of _____ County of _____

a corporation incorporated under the laws of the State of _____

hereinafter called the "SURETY", are held and firmly bound unto the Water and Sewer Authority of Cabarrus County, located in the State of North Carolina, hereinafter called the Authority, in the sum of _____

_____ /100 dollars (\$ _____) for the payment whereof the Principal and Surety or Sureties bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly, by this bond.

THE CONDITION OF THIS OBLIGATION is such that whereas the Contractor/Principal entered into a certain contract with the Authority, titled and numbered above and hereto attached.

NOW THEREFORE, if the principal shall promptly make all payments to all persons supplying labor, or materials or both in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, and shall fully indemnify and save harmless the Authority from all cost and damage which the Authority may suffer by reason of failure to do so, and shall fully reimburse and repay the Authority all outlay and expense which the Authority may incur resulting from said failure, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

And the said SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed under the Specifications accompanying the same, shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract, or to the work, or to the Specifications.

This Bond is executed under and pursuant to the General Statutes of North Carolina 44A-Sections 25-33 and amendments thereto and the same is made a part hereof.

SIGNED AND SEALED, THIS the _____ day of _____ 2005.

WITNESS AS TO CONTRACTOR – PRINCIPAL:

CONTRACTOR-PRINCIPAL (SEAL)

ATTEST AS TO SURETY COMPANY: BY: _____
TITLE

SURETY COMPANY (SEAL)

BY: _____
AUTHORIZED AGENT OR ATTORNEY-IN-FACT

COUNTERSIGNED: BY: _____
N.C. RESIDENT AGENT

IF BOND IS EXECUTED BY ATTORNEY-IN-FACT THEN THERE MUST BE ATTACHED TO THIS ACKNOWLEDGEMENT, A CERTIFIED COPY OF THE POWER-OF-ATTORNEY

ACKNOWLEDGEMENT FOR A SURETY COMPANY

OR OTHER CORPORATION

State of _____)
County of _____)

On this _____ day of _____, 20____ before me, a Notary Public in and for said County and State personally appeared _____ to me personally known, who, being by me duly sworn, says that he is the _____ of the _____

and that the seal affixed to the foregoing instrument in writing is the corporate seal of the company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given by its Board of Directors,

and the said _____

as such _____

duly acknowledged said instrument to be the free act and deed of said corporation.

AFFIANT

SWORN TO BEFORE ME THIS _____ DAY OF _____, 20____

NOTARY PUBLIC

MY COMMISSION EXPIRES THE

_____ DAY OF _____, 20____
(AFFIX NOTARY SEAL)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	COMPANIES AFFORDING COVERAGE	
	COMPANY A	
	COMPANY B	
INSURED	COMPANY B	
	COMPANY C	
	COMPANY D	

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	COVERED PROPERTY	LIMITS
<input type="checkbox"/>	PROPERTY				BUILDING	\$
	CAUSES OF LOSS				PERSONAL PROPERTY	\$
	<input type="checkbox"/> BASIC				BUSINESS INCOME	\$
	<input type="checkbox"/> BROAD				EXTRA EXPENSE	\$
	<input type="checkbox"/> SPECIAL				BLANKET BUILDING	\$
	<input type="checkbox"/> EARTHQUAKE				BLANKET PERS PROP	\$
	<input type="checkbox"/> FLOOD				BLANKET BLDG & PP	\$
						\$
						\$
						\$
<input type="checkbox"/>	INLAND MARINE					\$
	TYPE OF POLICY					\$
	CAUSES OF LOSS					\$
	<input type="checkbox"/> NAMED PERILS					\$
	<input type="checkbox"/> OTHER					\$
<input type="checkbox"/>	CRIME					\$
	TYPE OF POLICY					\$
						\$
<input type="checkbox"/>	BOILER & MACHINERY					\$
						\$
<input type="checkbox"/>	OTHER					

LOCATION OF PREMISES/DESCRIPTION OF PROPERTY

SPECIAL CONDITIONS/OTHER COVERAGES

CERTIFICATE HOLDER	CANCELLATION
	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.</p> <p>AUTHORIZED REPRESENTATIVE</p>

CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, _____, the duly authorized and acting legal representative of the Water & Sewer Authority of Cabarrus County do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions, and provisions thereof.

Signed: _____ (SEAL)

Date: _____

NOTICE TO PROCEED

Dated _____

WATER AND SEWER AUTHORITY OF CABARRUS COUNTY

PROJECT: _____

CONTRACT FOR: _____

CONTRACTOR: (name and address)

Mr. _____

You are hereby notified to commence work on the subject contract on or before _____ and are to fully complete the work within _____ calendar days. In accordance with the contract documents, the Substantial Completion date for work is _____, with the Final Completion date being _____. Extension in time will be written change order only.

For all work, the contract provides for assessment of liquidated damages for each consecutive calendar day after the established substantial completion date the sum of \$_____ that the work remains incomplete, and for each consecutive calendar day after the above established final completion date the sum of \$_____ that the work remains incomplete.

By: Water and Sewer Authority of Cabarrus County
(Owner)

By: _____
(Authorized Signature)

(Title)

ACCEPTANCE OF NOTICE

By: _____
(Contractor)

(Authorized Signature)

(Printed Name and Title of Above Signer)

(Date)

NOTE: Attach this notice to your contract making it a part thereof.

WATER & SEWER AUTHORITY OF CABARRUS COUNTY

ESTIMATE OF CONSTRUCTION
VALUE COMPLETED FOR THE
PERIOD:

0/00/00 - 0/00/00

ESTIMATE NUMBER:

PROJECT TITLE:

CONTRACTOR:

PROJECT INFORMATION:

CONTRACT TIME:

NOTICE TO PROCEED:

PURCHASE ORDER NO.:

I hereby certify that to the best of my knowledge this estimate is correct, due, and unpaid.

CONTRACT SUM:

Approvals

Date

CHANGE ORDER SUM:

CONTRACTOR:

TOTAL CONTRACT SUM:

INSPECTOR:

CONSTRUCTION TO DATE:

LESS 0 % RETAINAGE:

PROJECT MANAGER:

TOTAL CONSTRUCTION TO DATE:

WSACC PROJ. MGR:

PLUS 90% MATERIALS ON HAND:

GROSS AMOUNT DUE:

FINANCE DIRECTOR:

LESS PREVIOUS PAYMENTS:

NET AMOUNT DUE:

COMMENTS:

WSACC USE ONLY:

STATE SALES TAX (10-1400):

COUNTY SALES TAX (10-1410):

LINES & STAS. (104-3010-6550):

TOTAL PAYMENT:

\$

APPENDIX E

MBE DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor: _____

Address & Phone: _____

Project Name: _____

Pay Application #: _____ Period: _____

The following is a list of payments made to Minority Business Enterprises on this project for the above-mentioned period.

MBE FIRM NAME	* INDICATE TYPE OF MBE	AMOUNT PAID THIS MONTH	TOTAL PAYMENTS TO DATE	TOTAL AMOUNT COMMITTED

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A), American Indian (I), Female (F), Social and Economically Disadvantage (D)

Date: _____

Approved/Certified By: _____

Name

Title

Signature

SUBMIT WITH EACH PAY REQUEST & FINAL PAYMENT

(Revised on 3/14/2003)

**WATER AND SEWER AUTHORITY OF CABARRUS COUNTY
CHANGE ORDER**

No. _____

PROJECT _____

Date of Issuance _____ **Effective Date** _____

OWNER _____ Water and Sewer Authority of Cabarrus County

OWNER'S Contract No. _____ **Project No.** _____

CONTRACTOR _____ **ENGINEER** _____

You are directed to make the following changes in the Contract Documents, as indicated in the attached Cost Proposal:

Description: (Enter description here)

Reason for Change: (Enter details here)

Attachments: (Include Attachments, as needed)

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$ _____	Original Contract Times Substantial Completion: _____ Ready for final payment: _____
Net changes from previous Change Orders No. 1 to 2 \$ _____	Net change from previous Change Orders No.1 to 2 _____ Days.
Contract Price prior to this Change Order \$ _____	Contract Times prior to this Change Order Substantial Completion: _____ Ready for final payment: _____
Net Increase/Decrease of this Change Order \$ _____	Net Increase/Decrease of this Change Order Substantial Completion: <u>0</u> Days Ready for final payment: <u>0</u> Days
Contract Price with all Approved Change Orders \$ _____	Contract Times with all approved Change Orders Substantial Completion: _____ Ready for final payment: _____

It is understood and agreed that the change in Contract Price stated above is the Contractor's full, final, and sole consideration for this Change Order, and that the Contract Price will not be changed further as a result of the circumstances giving rise to this Change Order. Signature below indicates agreement to waive any past, present or future claims for direct, indirect, impact, delay, inefficiency, acceleration, and increased staff, general conditions, and home office costs in any way associated with or arising from this Change Order.

RECOMMENDED: By: _____ Engineer (Authorized Signature) Date: _____	APPROVED: By: _____ Owner (Authorized Signature) Date: _____	ACCEPTED: By: _____ Contractor (Authorized Signature) Date: _____
--	--	---

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: _____
(WSACC Finance Director) Date

CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT _____

DATE OF ISSUANCE _____

OWNER Water and Sewer Authority of Cabarrus County

OWNER'S CONTRACT NO. _____

CONTRACTOR _____ ENGINEER _____

This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

TO Water and Sewer Authority of Cabarrus County
Owner

And TO _____
Contractor

The Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR, and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

Date of Substantial Completion

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within 30 days of the above date of Substantial Completion.

From the date of Substantial Completion, the responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

RESPONSIBILITIES:

OWNER _____

CONTRACTOR

The following documents are attached to and made a part of this Certificate:

Contract
Deficiency List dated

(For items to be attached, see definition of Substantial Completion as supplemented and other specifically noted conditions precedent to achieving Substantial Completion as required by Contract Documents.)

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents.

Executed by ENGINEER on _____
Engineer

By: _____
Authorized Signature

CONTRACTOR accepts this Certificate of Substantial Completion on _____
Date

Contractor

By: _____

OWNER accepts this Certificate of Substantial Completion on _____
Date

Water and Sewer Authority of Cabarrus County
Owner

By: _____

CERTIFICATE OF FINAL PAYMENT

DATE: _____

To: Contractor _____
 Address _____
 Owner _____
 Address _____
 Project _____ Project No. _____
 Date of Contract _____ Original Contract Price _____

The work performed under this Contract has been inspected by authorized representatives of the Owner, Contractor, Engineer, and Regulatory Agencies and is hereby declared to be completed as of the date shown below:

Date of Completion _____

Attached is the Contractor's Waiver of Liens Affidavit and Consent of Surety.

The Contractor and his Sureties shall guarantee all work against defects as specified in the Contract for one year.

End of Guarantee Period _____

The final Payment due to the Contractor by the Owner for the completed project is \$ _____ payable within 30 days after filing of this Final Certificate of Payment. The Final Total Contract Price is \$ _____

REMARKS:

Recommended by Engineer _____

Accepted by Contractor _____

Approved by Owner _____

**CONTRACTOR'S
AFFIDAVIT OF
RELEASE OF LIENS**
EJCDC C-700

OWNER
ENGINEER
CONTRACTOR
SURETY
OTHER

TO (Owner)

PROJECT NO:
CONTRACT FOR:

PROJECT:

CONTRACT DATE:

State of:

County of:

The undersigned, pursuant to Article 14 of the General Conditions of the Contract for Construction EJCDC C-700 Standard Conditions of the Construction Contract, hereby certifies that to the best of his knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS: (If none, write "None". If required by the Owner, the Contractor shall furnish bond satisfactory to the Owner for each exception.)

SUPPORTING DOCUMENTS ATTACHED HERETO:

CONTRACTOR:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
3. Consent of Surety to Final Payment.

Subscribed and sworn to before me this
day of

Notary Public:

My Commission Expires:

WORK CHANGE DIRECTIVE

Project: _____

Contractor: _____

Work Change Directive: No. 1 **Date:** _____

TO: (Contractor Project Manager)

FROM: (Owner Project Manager)

SUBJECT:

CONTRACT DOCUMENTS: Specification (Specification section; Contract drawings, etc.)

This Work Change Directive is being issued as record of the agreed upon changes to _____

The changes are generally described as follows:

Please contact me if you have any questions or need any additional information.

Approval(s):

By: _____
 Owner

Date: _____

By: _____
 Engineer

Date: _____

By: _____
 Contractor

Date: _____

Cc:

				Project File	



Water & Sewer Authority of Cabarrus County

NOTICE

The EJCDC Standard General Conditions of the Construction Contract are provided under license by the National Society of Professional Engineers (NSPE) and may be used by the licensee and its designees in connection with these standard specifications. Individuals or companies seeking further access to the EJCDC Standard General Conditions of the Construction Contract or other EJCDC documents for use on additional projects should contact the National Society of Professional Engineers (www.nspe.org).

**Engineers Joint Documents Committee
Design and Construction Related Documents
Instructions and License Agreement**

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4. Also note the instruction in the License Agreement about the EJCDC copyright.

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Term:

The license is effective until terminated. You may terminate it at any time by destroying **EJCDC Design and Construction Related Documents** altogether with all copies, modifications and merged portions in any form. It will also terminate upon conditions set forth elsewhere in this Agreement or if you fail to comply with any term or condition of this Agreement. You agree upon such termination to destroy **EJCDC Design and Construction Related Documents** along with all copies, modifications and merged portions in any form.

Limited Warranty:

EJCDC warrants the CDs and diskettes on which **EJCDC Design and Construction Related Documents** is furnished to be free from defects in materials and

workmanship under normal use for a period of ninety (90) days from the date of delivery to you as evidenced by a copy of your receipt.

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EJCDC's entire liability and your exclusive remedy shall be:

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2. if EJCDC's selling agent is unable to deliver a replacement CD or diskette which is free of defects in materials and workmanship, you may terminate this Agreement by returning EJCDC Document and your money will be refunded.

In no event will EJCDC be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use **EJCDC Design and Construction**

Related Documents even if EJCDC has been advised of the possibility of such damages, or for any claim by any other party.

Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.

General:

You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement. Any attempt otherwise to sublicense, assign, or transfer any of the rights, duties, or obligations hereunder is void.

This Agreement shall be governed by the laws of the State of Virginia. Should you have any questions concerning this Agreement, you may contact EJCDC by writing to:

Arthur Schwartz, Esq.
General Counsel
National Society of Professional Engineers
1420 King Street
Alexandria, VA 22314

Phone: (703) 684-2845
Fax: (703) 836-4875
e-mail: aschwartz@nspe.org

You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between us which supersedes any proposal or prior agreement, oral or written, and any other communications between us relating to the subject matter of this agreement.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT



Construction Specifications Institute

Prepared by

**ENGINEERS JOINT CONTRACT DOCUMENTS
COMMITTEE**

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE
PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL
ENGINEERS

AMERICAN COUNCIL OF ENGINEERING
COMPANIES

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This document has been approved and endorsed by



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National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314

American Council of Engineering Companies
1015 15th Street, N.W., Washington, DC 20005

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor Nos. C-520 or C-525 (2002 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC Construction Documents, General and Instructions (No. C-001) (2002 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. C-800) (2002 Edition).

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment*--The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*--The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*--A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*-- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*--The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*--See Paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer*--The individual or entity named as such in the Agreement.

20. *Field Order*--A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

21. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

22. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*--The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*--A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

29. *Owner*--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*--Polychlorinated biphenyls.

31. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Progress Schedule*--A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Related Entity* -- An officer, director, partner, employee, agent, consultant, or subcontractor.

37. *Resident Project Representative*--The authorized representative of Engineer who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Schedule of Submittals*--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *Schedule of Values*--A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

41. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

42. *Site*--Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

43. *Specifications*--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain

administrative requirements and procedural matters applicable thereto.

44. *Subcontractor*--An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

45. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

46. *Successful Bidder*--The Bidder submitting a responsive Bid to whom Owner makes an award.

47. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

48. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.

49. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

50. *Unit Price Work*--Work to be paid for on the basis of unit prices.

51. *Work*--The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

52. *Work Change Directive*--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times

but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following meaning.

B. Intent of Certain Terms or Adjectives

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. Day

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. Defective

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

- a. does not conform to the Contract Documents, or
- b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents, or
- c. has been damaged prior to Engineer's - recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

E. Furnish, Install, Perform, Provide

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 Delivery of Bonds and Evidence of Insurance

A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.

B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 Copies of Documents

A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 Commencement of Contract Times; Notice to Proceed

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement

or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 Starting the Work

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 Before Starting Construction

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule; indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 Preconstruction Conference

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 Initial Acceptance of Schedules

A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer, and others as appropriate will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

A. Standards, Specifications, Codes, Laws, and Regulations

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or

responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of, their Related Entities, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor knew or reasonably should have known thereof.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work

(unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;

2. Engineer's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.17.D.3); or

3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a direct or indirect contract with Contractor, shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or Engineer's consultants, including electronic media editions; or

2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaption by Engineer.

B. The prohibition of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's

sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party..

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings*: The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice*: If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review*: After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in Paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

- a. reviewing and checking all such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will

promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to

entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06. G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified

in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Owner shall deliver to Contractor, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

5.04 *Contractor's Liability Insurance*

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection

from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment.

a. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, (other than caused by flood) and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any

deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order .

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract

Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or

received from the superintendent shall be binding on Contractor.

6.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole,

3) it has a proven record of performance and availability of responsive service; and

b. Contractor certifies that, if approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times, and

2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. Substitute Items

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.

d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time;

b) whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and

c) whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

a) all variations of the proposed substitute item from that specified, and

b) available engineering, sales, maintenance, repair, and replacement services;

4) and shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change,

B. Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. Engineer's Cost Reimbursement: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the charges of Engineer for making changes in the Contract

Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

F. Contractor's Expense: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 Concerning Subcontractors, Suppliers, and Others

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity, nor

2. shall anything in the Contract Documents create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual

or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 Taxes

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 Use of Site and Other Areas

A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.

B. Removal of Debris During Performance of the Work: During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. Cleaning: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. Loading Structures: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 Record Documents

A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 Safety and Protection

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Draw-

ings or Specifications or to the acts or omissions of Owner or Engineer or , or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

D. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. Shop Drawings

a. Submit number of copies specified in the General Requirements.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples*: Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals , any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and

d. shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents

with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations, that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawing's or Sample Submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. Engineer's Review

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. Resubmittal Procedures

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 Continuing the Work

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or

disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 Contractor's General Warranty and Guarantee

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its Related Entities shall be entitled to rely on representation of Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. use or occupancy of the Work or any part thereof by Owner;

5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

6.20 Indemnification

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or

arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable .

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

6.21 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal

shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 - OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and
2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and

properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's actions or inactions.

C. Contractor shall be liable to Owner and any other contractor for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's action or inactions.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

8.02 *Replacement of Engineer*

A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by Engineer in preparing the Contract Documents.

8.06 *Insurance*

A. Owner's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility in respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. If and to the extent Owner has agreed to furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract Documents and will not be changed without written consent of Owner and Engineer.

9.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep

Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believe that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show

partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to, the Resident Project Representative, if any, and assistants, if any.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall

promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim, shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part,

2. approve the Claim, or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and

Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to Engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have

resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. Costs Excluded: The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A and 11.01.B.

C. Contractor's Fee: When all the Work is performed on the basis of cost-plus, Contractor's fee shall

be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. Documentation: Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 Allowances

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. Cash Allowances

1. Contractor agrees that:

a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. Contingency Allowance

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 Unit Price Work

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an

allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted

by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to

be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If, the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or
2. correct such defective Work; or
3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications .

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress

payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. Applications for Payments

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations on the Site of the executed Work as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

b. that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

a. to supervise, direct, or control the Work, or

b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent

inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. Reduction in Payment

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

- a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
- b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
- c. there are other items entitling Owner to a set-off against the amount recommended; or
- d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor corrects to Owner's satisfaction the reasons for such action.

3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

14.03 Contractor's Warranty of Title

A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 Substantial Completion

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, , Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within 14 days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said 14 days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial

Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions.

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor will certify to Owner and Engineer that such part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals

that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. Application for Payment

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;

b. consent of the surety, if any, to final payment;

c. a list of all Claims against Owner that Contractor believes are unsettled; and

d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien.

B. *Engineer's Review of Application and Acceptance*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations

under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and , will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance

with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be

governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or

2. agrees with the other party to submit the Claim to another dispute resolution process, or

3. gives written notice to the other party of their intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

17.06 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

SCOPE

- SC-1 DEFINITIONS AND TERMINOLOGY
 - SC-1.01 Defined Terms

- SC-2 PRELIMINARY MATTERS
 - SC-2.02 Copies of Documents
 - SC-2.03 Commencement of Contract Times

- SC-3 CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE
 - SC-3.01 Intent

- SC-4 AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS
 - SC-4.04 Underground Facilities

- SC-5 BONDS AND INSURANCE
 - SC-5.01 Performance, Payment, and Other Bonds
 - SC-5.02 Licensed Sureties and Insurers
 - SC-5.03 Certificates of Insurance
 - SC-5.04 Contractor's Liability Insurance
 - SC-5.05 Property Insurance
 - SC-5.06 Waiver of Rights
 - SC-5.07 Receipt and Application of Insurance Proceeds
 - SC-5.08 Acceptance of Bonds and Insurance; Option to Replace
 - SC-5.09 Partial Utilization; Acknowledgment of Property Insurer

- SC-6 CONTRACTOR'S RESPONSIBILITIES
 - SC-6.02 Labor; Working Hours
 - SC-6.05 Substitutes or Or-Equals
 - SC-6.06 Concerning Subcontractors, Suppliers, and Others
 - SC-6.08 Permits
 - SC-6.09 Laws and Regulations
 - SC-6.10 Taxes
 - SC-6.13 [Safety and Protection](#)
 - SC-6.19 Contractor's General Warranty and Guarantee

- SC-7 OTHER WORK
 - SC-7.03 Delays and Damages

- SC-8 OWNER'S RESPONSIBILITIES - No modifications.

- SC-9 ENGINEER'S STATUS DURING CONSTRUCTION - No modifications.
- SC-10 CHANGES IN THE WORK; CLAIMS - No modifications.
- SC-11 COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK
 - SC-11.03 Unit Price Work
- SC-12 CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES
 - [SC 12.02 Change of Contract Times](#)
- SC-13 TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK
 - SC-13.02 Access to Work
 - SC-13.07 Correction Period
- SC-14 PAYMENTS TO CONTRACTOR AND COMPLETION
 - SC-14.02 Progress Payments
 - SC-14.07 Final Payment
- SC-15 SUSPENSION OF WORK AND TERMINATION - No modifications.
- SC-16 DISPUTE RESOLUTION
 - SC-16.01 Methods and Procedures
- SC-17 MISCELLANEOUS
 - SC-17.04 Survival of Obligations

SUPPLEMENTARY CONDITIONS

SCOPE. These Supplementary Conditions amend or supplement the General Conditions and other provisions of the Contract Documents as indicated herein. All provisions, which are not so amended or supplemented, remain in full force and effect.

SC-1. DEFINITIONS AND TERMINOLOGY

SC-1.01. Defined Terms. Add the following definitions to Paragraph 1.01.A of the General Conditions:

53. Owner's Consultants – Owner's Consultants will be:

a. _____

54. without exception - The term "without exception", when used in the Contract Documents following the name of a Supplier or a proprietary item of equipment, product, or material, shall mean that the sources of the product are limited to the listed Suppliers or products and that no like, equivalent, or "or-equal" item and no substitution will be permitted.

SC-2. PRELIMINARY MATTERS

SC-2.02. Copies of Documents. Delete Paragraph 2.02.A of the General Conditions, and add the following new paragraph:

A. The Contractor to whom a contract is awarded will be furnished, free of charge, four (4) copies of the Specifications and four (4) sets of the Drawings, together with all Addenda thereto. Additional copies of Specifications and Drawings may be obtained from Engineer on the following basis:

Full set of Drawings	\$25.00
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Each set of Specifications	\$50.00
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B. The Owner shall furnish the Contractor an additional set of Drawings and Specifications marked "Record Drawings" which shall be kept in the job office. This set shall be correct at all times and available to all Contractors and Subcontractors on the project. The Contractor shall keep a complete and up-to-date- record in red pencil of any and all changes made during construction. This set of Drawings and Specifications shall be forwarded to

the Owner upon completion of the project and prior to final payment. No monthly payment estimate will be approved by the Owner unless this set is up to date at the time Contractor submits payment request.

SC-2.03. Commencement of Contract Times; Notice to Proceed. Delete the last sentence of Paragraph 2.03.A of the General Conditions and add the following new sentence:

In no event will the Contract Times commence to run later than the thirtieth day after the Effective Date of the Agreement.

SC-3. CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

SC-3.01. Intent. Add the following new sentence at the end of Paragraph 3.01.A of the General Conditions:

The Specifications as a whole will govern the construction of the entire Work. The applicable provisions thereof will govern Work to be performed under each section of the Contract.

SC-4. AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

Refer to Special Conditions for information concerning drawings and reports used in preparation of the Contract Documents.

SC-4.04.B. Not Shown or Indicated. Add the following [new paragraph 4.04.B3](#) immediately after Paragraph 4.04.B.2 of the General Conditions:

3. Generally, service connections are not indicated on the Drawings. Contractor shall be responsible for discovery of existing underground installations, in advance of excavating or trenching, by contacting all local utilities and by prospecting.

SC-5. BONDS AND INSURANCE. Delete Article 5 of the General Conditions in its entirety, and insert the following text in its place:

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds.*

A. Contractor shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all Contractor's obligations under the Contract

Documents. A two-hundred percent (200%) Performance Bond will be acceptable in lieu of separate Performance and Payment Bonds. These Bonds shall remain in effect at least until 1 year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the Surety on any Bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall within 20 days thereafter substitute another Bond and Surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 Licensed Sureties and Insurers.

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 Certificates of Insurance.

A. Contractor shall deliver to Owner, with copies to each additional insured, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain. Owner shall deliver to Contractor, with copies to each additional insured, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured), which Owner is required to purchase and maintain.

B. Certificates of insurance shall be submitted on the forms [that are acceptable to the Owner, and worded and formatted as that shown on the "Certificate of Insurance" forms](#) included in the Contract Documents.

5.04 *Contractor's Liability Insurance.*

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. Claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
4. Claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (ii) by any other person for any other reason;
5. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance so required by this Paragraph 5.04 to be purchased and maintained shall:

1. With respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) Owner, Engineer, Engineer's Consultants, and any other individuals listed as

additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. Include at least the specific coverages and be written for not less than the limits of liability specified or required by Laws or Regulations, whichever is greater;

3. Include completed operations insurance;

4. Include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.07, 6.11, and 6.20;

5. Contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

6. Remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

7. With respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and Contractor shall furnish Owner and each other additional insured to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and 1 year thereafter).

8. Contain a cross-liability or severability-of-interest clause or endorsement. Insurance covering the specified additional insureds shall be primary insurance, and all other insurance carried by the additional insureds shall be excess insurance; and

9. With respect to workers' compensation and employers' liability, comprehensive automobile liability, commercial general liability, and umbrella liability insurance, and all other liability insurance specified herein to be provided by Contractor, Contractor shall require its insurance carriers to waive all rights of subrogation against Owner, Engineer, and their respective officers, directors, partners, employees, and agents.

C. Worker's Compensation and Employer's Liability Insurance. This insurance shall protect Contractor against all claims under applicable state workers' compensation laws, including coverage as necessary for the benefits provided under the United States Longshoremen's and Harbor Workers' Act and the Jones Act. Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a workers' compensation law. This policy shall include an "all states" or "other states" endorsement.

The liability limits shall be not less than:

Workers' compensation	Statutory
Employers' liability	\$1,000,000 each occurrence

D. Comprehensive Automobile Liability Insurance. This insurance shall be occurrence type, written in commercial form, and shall protect Contractor, and Owner and Engineer as additional insureds, against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, either on or off the project site whether they are owned, non-owned, or hired.

The liability limits shall be not less than:

Bodily injury and property damage	\$1,000,000 combined single limit for each occurrence
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E. Commercial General Liability Insurance. This insurance shall be occurrence type, written in commercial form, and shall protect Contractor, and Owner and Engineer as additional insureds, against claims arising from injuries, sickness, disease, or death of any person or damage to property arising out of performance of the Work. The policy shall also include a per-project aggregate limit endorsement, personal injury liability coverage, contractual liability coverage, completed operations and products liability coverage, and coverage for blasting, explosion, collapse of buildings, and damage to underground property.

The liability limits shall be not less than:

Bodily injury and property damage	\$1,000,000 combined single limit for each occurrence
	\$1,000,000 general aggregate

F. Umbrella Liability Insurance. This insurance shall protect Contractor, and Owner and Engineer as additional insureds, against claims in excess of the limits provided under workers' compensation and employers' liability, comprehensive automobile liability, and commercial general liability policies. The umbrella policy shall follow the form of the primary insurance, including the application of the primary limits.

The liability limits shall be not less than:

Bodily injury and property damage	\$4,000,000 combined single limit for each occurrence
	\$4,000,000 general aggregate

G. Owner's Protective Liability Insurance. Not Applicable – to be included in the in the Commercial General Liability Insurance coverage

H. Railroad Protective Liability Insurance. Not Applicable

5.05 *Property Insurance.*

A. Contractor, with sole liability for the payment of the premiums, shall purchase and maintain property insurance upon the Work at the site in the amount of the full replacement cost thereof. This insurance shall:

1. Include the interests of Owner, Contractor, Subcontractors, Engineer, Engineer's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a named insured;

2. BUILDER'S RISK: Be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, flood, and damage caused by frost and freezing. Equipment installed under the Work performed shall be insured under installation floater insurance when the aggregate value of the equipment exceeds \$10,000.00. If the

work does not include the construction of building structures, builder's risk insurance may be omitted providing the installation floater insurance fully cover all work;

3. Cover, in an amount not less than \$_____, the Owner-furnished equipment and materials to be erected or installed by Contractor.

4. Include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

5. Cover materials and equipment stored at the site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

6. Allow for partial utilization of the Work by Owner;

7. Include testing and startup; and

8. Be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer and Engineer's Consultant with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 shall contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days' prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued, and shall contain waiver provisions in accordance with Paragraph 5.07.

C. If Owner requests in writing that other special insurance be included in the property insurance policies provided under Paragraph 5.06, Contractor shall, if possible, include such insurance, and the cost thereof will be charged to Owner by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the site, Contractor shall in writing advise Owner whether or not such other insurance has been procured by Contractor.

5.06 *Waiver of Rights.*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, Engineer, Engineer's Consultants, (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, Engineer, Engineer's Consultants, and all other individuals or entities listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, Engineer, Engineer's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for:

1. Loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other peril whether or not insured by Owner; and

2. Loss or damage to the completed project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed project or part thereof by Owner during partial utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy covering any loss, damage or consequential loss referred to in Paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Owner, Contractor,

Subcontractors, Engineer, Engineer's Consultants, or the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them.

5.07 Receipt and Application of Insurance Proceeds.

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the monies so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.08 Acceptance of Bonds and Insurance; Option to Replace.

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.05.C. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such

other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.09 Partial Utilization, Acknowledgment of Property Insurer.

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

SC-6. CONTRACTOR'S RESPONSIBILITIES.

SC-6.02. Labor; Working Hours. Add the following new paragraphs immediately after Paragraph 6.02.B of the General Conditions:

C. No Work shall be done between 6:00 p.m. and 7:00 a.m. without permission of Owner. However, emergency work may be done without prior permission.

D. Night Work may be undertaken as a regular procedure with the permission of Owner; such permission, however, may be revoked at any time by Owner if Contractor fails to maintain adequate equipment and supervision for the proper prosecution and control of the Work at night.

SC-6.05. Substitutes and "Or-Equals". Add the following new paragraph immediately after Paragraph 6.05.F of the General Conditions:

G. Application for review of substitute or "or-equal" materials or equipment will be considered by Engineer according to Section 133-3, General Statutes for North Carolina, from _____ until _____, and must be submitted in writing. Applications received after _____ will not be reviewed.

SC-6.06. Concerning Subcontractors, Suppliers, and Others. Add the following new paragraph immediately after Paragraph 6.06.G of the General Conditions:

H. Particular consideration will be given to the qualifications of each Subcontractor. The use of Subcontractors proposed by Bidder and accepted by Owner prior to the Notice of Award will be required in the performance of the Work unless otherwise permitted or directed by Owner.

SC-6.09. Laws and Regulations. Add the following new paragraphs immediately after Paragraph 6.09.C of the General Conditions:

D. Safety and Health Regulations. North Carolina "Occupational Safety and Health Standards for General Industry" shall apply to Work under this Contract.

E. Contract Determination – Debarment. This Contract will not be awarded to a Contractor that has been suspended by the State of North Carolina or any agency or department thereof for conviction or indictment or any of the offenses enumerated in G.S. 133-27.

Subcontracts of any tier will not be awarded to a subcontractor (or firm) that has been suspended for conviction or indictment of any of the offenses enumerated in G.S. 133-27.

The Contractor will complete and submit with the Bid the certification pertaining to debarment included in the Bid Forms section of this document.

F. North Carolina License Requirements. Pursuant to Section 87-15, General Statutes of North Carolina, Bidders must show evidence of a North Carolina Contractor's License prior to consideration of their Bids.

SC-6.10. Taxes. Add the following new paragraphs immediately after Paragraph 6.10.A of the General Conditions:

B. The Contractor shall, without additional expense to the Owner pay all applicable federal, state, and local taxes of every kind and character, except taxes and assessments on the real property comprising the site of the Project, and such taxes shall be considered incidental and included in the total Bid.

C. The Contractor shall submit to the Owner certified proof evidencing the payment of sales and use tax on all materials purchased and tool and equipment rentals paid by the Contractor for governmental projects. The certified statement shall be on a form acceptable to the Owner and shall itemize such purchases and rentals and the tax paid thereon, and certify that the materials, tools, and equipment were used for this Project. Such statements shall be furnished to the Owner in triplicate, monthly, with the partial payments.

SC-6.13. Safety and Protection. Add the following new paragraphs immediately after Paragraph 6.13.A.3 of the General Conditions:

4. Contractor shall provide a written copy of safety, drug, and alcohol abuse program, to the Owner.
5. Contractor shall provide a copy of OSHA 300A form(s) of the previous calendar year, to the Owner.
6. Review of, and adherence to, Owner safety requirements, policies, and procedures; including attendance to weekly on-site safety meetings.
7. Agree to receive all Owner safety warning notices and act immediately on said notices.
8. Agree to complete and submit Owner accident report forms, as may be applicable.
9. Agree to a project insurance review with the Owner and provide additional coverage as requested above that stated in Article 8 of the Supplementary Conditions.
10. Shall strictly adhere to and comply with especially:
 - OSHA 29 CFR Subpart E. (Personal Protection).
 - OSHA 29 CFR Subpart P. (Excavations).
 - OSHA 29 CFR Subpart S. (Underground Construction).
 - OSHA 29 CFR Subpart U. (Blasting).
11. Contractor shall provide NC OSHA 300A form(s) upon Contract completion.

SC-6.19. Contractor's General Warranty and Guarantee. Add to Paragraph 6.19.C of the General Conditions and replace the following Paragraphs 6.19.C.8:

8. Any expiration of a correction period.

SC-6.20. Indemnification. After the word "indemnify" in the first sentence of 6.20A add the following words – "and defend" -. Sentence shall read as follows:

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify, defend and hold harmless Owner and Engineer

SC-7. OTHER WORK

SC-7.04. Delays and Damages. Add the following new paragraph immediately after Paragraph 7.03 of the General Conditions:

7.04. Delays and Damages

A. In the event Contractor is delayed in the prosecution and completion of the Work because of the rate of progress of the Work to be performed under other sections of this Contract, other contracts, or damage to the Work or the property of Contractor by contractors on other sections of this Contract or other contracts, Contractor shall have no claim against Owner for damages or contract adjustment other than an extension of Contract Time and the waiving of liquidated damages for the period of delay.

Time limitations required by Owner shall be for the benefit of Owner and contractors under other sections of this Contract or other contracts who have entered into such contracts with Owner in reliance on the time limitations set forth in these Contract Documents. Any claim by Contractor for damages due to delay or damage to the Work or the property of Contractor by another contractor shall be asserted against that contractor.

SC-8. OWNER'S RESPONSIBILITIES - No modifications.

SC-9. ENGINEER'S STATUS DURING CONSTRUCTION - No modifications.

SC-10. CHANGES IN THE WORK; CLAIMS. No modifications.

SC-11. COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

SC-11.03. Unit Price Work. Delete Paragraph 11.03.D.3 of the General Conditions and replace it with the following:

3. if the variation in the total bid price of work performed by Contractor is changed by more than 25 percent; and

4. if Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the

parties are unable to agree as to the amount of any such increase or decrease.

SC-12. CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES.

SC-12.02. Change of Contract Times. Add the following new paragraph immediately after Paragraph 12.02B of the General Conditions:

C. "The Construction Time" shall be as stated on the Agreement. The total number of calendar days stipulated for substantial and final completion shall be the number of calendar days allowed in the construction time including time for normal bad weather. The following is a list of the number of bad weather days allowed per month for work in Cabarrus County:

<u>Month</u>	<u>Average No. Days with 0.10 inch precipitation or greater</u>
January	6
February	7
March	8
April	7
May	7
June	7
July	6
August	6
September	4
October	5
November	5
December	5

Normal bad weather days shall be defined as those days on which precipitation is 0.10 of an inch, or greater, and for which bad weather has an adverse effect on the construction activities.

If the total accumulated number of calendar days lost due to bad weather in any month, exceeds the total number of days allowed in the construction time for normal bad weather (as noted in the table above), the time for Substantial and Final Completion will be extended by the difference. For construction periods that begin or end within the month, the bad weather days will be prorated based on the contract days in that month to the total days in that month. Time extensions associated with bad weather days will be approved by Change Order and the time extensions will be processed at reasonable time intervals, which will be assumed to be no more frequently than every three (3) months.

Any extension of time relating to bad weather days shall be based on local climatological data logs kept at the nearest local governmental operated water treatment facility, wastewater treatment facility, or other governmental agency that maintains rainfall data, as determined by the Engineer.

SC-13. TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK.

SC-13.02. Access to Work. Add the following new paragraph immediately after Paragraph 13.02.A of the General Conditions:

B. Authorized representatives of applicable regulatory agencies, and Owner shall have access to the Work wherever it is in preparation or progress. Contractor shall provide proper facilities for such access and inspection.

SC-13.07. Correction Period. Add the following new paragraph immediately after Paragraph 13.07.E of the General Conditions:

F. Nothing in this Article 13 concerning the correction period shall establish a period of limitation with respect to any other obligation which Contractor has under the Contract Documents. The establishment of time periods relates only to the specific obligations of Contractor to correct the Work, and has no relationship to the time within which Contractor's obligations under the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Contractor's liability with respect to Contractor's obligations other than to specifically correct the Work.

SC-14. PAYMENTS TO CONTRACTOR AND COMPLETION

SC-14.02. Progress Payments. Add the following new paragraphs immediately following Paragraph 14.02.A.3 of the General Conditions:

4. Summary Sheet. Each application for payment shall be accompanied by Contractor's updated partial payment application with summary figures and approval signatures.

5. Contractor's Affidavit. Each application for payment shall be accompanied with the Contractor's affidavit certifying compliance with Contract Documents and that all previous amounts have been paid for which provisions partial payment applications have been submitted.

6. Tax Statement and Certification. Each application for payment shall be accomplished by Contractor's tax statement and certification, containing original signatures and notary seal, certifying summarizing payment of state and local taxes.

7. Materials and Equipment. Payments for stored materials and equipment shall be based only upon the actual cost to Contractor of the materials and equipment and shall not include any overhead or profit to Contractor.

Partial payments will not be made for undelivered materials or equipment.

8. Schedules and Data. During the progress of the Work, each Application for Payment shall be accompanied by Contractor's updated schedule of operations, or progress report, with such shop drawings schedules, procurement schedules, values of materials and equipment on hand included in application, and other data specified or reasonably required by Engineer.

SC-14.07. Final Payment. Add the following new sentence at the end of Paragraph 14.07.A.2.b of the General Conditions:

Consent of the Surety, signed by an agent, must be accompanied by a certified copy of such agent's authority to act for the Surety.

SC-15. SUSPENSION OF WORK AND TERMINATION. - No modifications.

SC-16. DISPUTE RESOLUTION.

SC-16.01 Methods and Procedures. Delete Paragraph 16.01.A of the General Conditions in its entirety, and insert the following text in its place:

A. Owner and Contractor may exercise such rights or remedies as either may have under the Contract Documents or By-Laws or Regulations, in any court of competent jurisdiction, in respect of any dispute. In addition, arbitration may be acceptable as a means of settling claims, disputes, and other matters, if agreed to in writing by the Owner and Contractor.

SC-17. MISCELLANEOUS

SC-17.04. Survival of Obligations. Add the following new paragraph immediately after Paragraph 17.04.A of the General Conditions:

B. Contractor shall obtain from all Suppliers and manufacturers any and all warranties and guarantees of such Suppliers and manufacturers, whether or not specifically required by the Specifications, and shall assign such warranties and guarantees to Owner. With respect thereto, Contractor shall render reasonable assistance to Owner when requested, in order to enable Owner to enforce such warranties and guarantees. The assignment of any warranties or guarantees shall not affect the Correction Period or any other provisions of these Contract Documents.

End of Section

SPECIAL CONDITIONS

A. SCOPE. These Special Conditions amend or supplement the Technical Specifications and other provisions of the Contract Documents as indicated herein. All provisions which are not so amended or supplemented remain in full force and effect.

(Specifier. Included below are items which need to be reviewed for each project. In some cases, suggested paragraphs are included for certain conditions. The specifier must edit, delete, or add to this section as required.)

B. SUPPLEMENTARY CONDITIONS. Add the following paragraphs to Supplementary Conditions section:

(Specifier. In the following paragraph, identify the subsurface information used by Engineer in the preparation of the Contract Documents and identify what is considered technical data. It is helpful if geotechnical reports are published in separate volumes which divide technical data from interpretation, comments, and other data.)
(
(Paragraph 4.02.A of the General Conditions requires that reports and drawings of subsurface and physical conditions be identified in the Supplementary Conditions. Edit the following paragraphs to match the specific project.)

SC-4.02. Subsurface and Physical Conditions.

A. Reports and Drawings.

1. Delete Paragraph 4.02.A.1 of the General Conditions and add the following:

1. No reports of explorations and tests of subsurface conditions at or contiguous to the site have been prepared.

1. Add the following new paragraph(s) immediately after Paragraph 4.02.A.1 of the General Conditions:

1. In preparation of the Contract Documents, the following reports of explorations and tests of subsurface conditions at the site of the Work were used:

a. Report dated _____,
prepared by _____,
titled “_____”.

The report shall be considered technical data upon which Contractor may rely.

b. Report dated _____,
prepared by _____,
titled “_____”.

The report shall be considered technical data upon which Contractor may rely.

***(Specifier. Include the following paragraph if there is)
(geotechnical data. Modify the paragraph to fit the)
(conditions or write an equivalent paragraph. Be certain)
(that no information or data is withheld.)
()
(Locations of all test holes relative to structures should)
(be provided to Contractor and generally are indicated)
(on the Drawings. If the locations of the test holes will)
(not be indicated on the Drawings, delete the last sentence)
(and add a sentence explaining where the information will be)
(indicated.)***

Test holes have been made along the route of the pipeline. The locations of test holes are indicated on the Drawings.

Samples taken from bore holes are available for inspection at _____ upon 48 hours' notice to Owner.

***(Specifier. In the following paragraph, identify the)
(physical condition information [existing drawings] used by)
(Engineer in the preparation of the Contract Documents and)
(identify what is considered technical data. Include the)
(project name, the name of the professional who prepared the)
(drawings, and the title on the drawings and their status,)
(such as record drawings or bid issue drawings. Edit the)
(following paragraphs to match the specific project.)***

2. Delete Paragraph 4.02.A.2 of the General Conditions and add the following:

2. No drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site are available.

2. Add the following new paragraphs immediately after Paragraph 4.02.A.2 of the General Conditions:

In preparation of the Contract Documents, the following drawings of physical conditions in or relating to existing surface and subsurface structures (except underground facilities) which are at or contiguous to the site of the Work were relied upon:

a. Drawings dated _____, 20____
prepared by _____,
titled “ _____ ”,

consisting of _____ sheets, numbered _____ to _____, inclusive. ***All of the information in such drawings constitute technical data on which Contractor may rely, except _____ appearing on Drawing No. _____ and _____ appearing on Drawing No. _____.***

b. Drawings dated _____, 20____
prepared by _____,
titled “ _____ ”,

consisting of _____ sheets, numbered _____ to _____,

inclusive. **All of the information in such drawings constitute technical data on which Contractor may rely, except _____ appearing on Drawing No. _____ and _____ appearing on Drawing No. _____.**

The report shall be considered technical data upon which Contractor may rely.

(Specifier. If drawings of physical conditions are available (for review, add the following paragraph with the location of (the drawings. Be certain that all drawings of physical (conditions pertinent to the Work are made available to (Contractor.))))

Drawings of physical conditions in or relating to existing surface and subsurface structures (except underground facilities) are available for review at _____, upon 48 hours' notice to Owner.

(Specifier. If reports of subsurface explorations and tests (and drawings of physical conditions are listed herein, (General Conditions Paragraph 4.02.B allows Contractor to (rely on the technical data in such reports and drawings. (Ordinarily, Contractor should be able to rely on such (information to the same extent as the designer. (When Contractor is allowed to rely upon the accuracy of (geotechnical data, a soils report, including boring logs (and results of field and laboratory tests, should be bound (as a separate volume and issued with each complete set of (Specifications. Contractor may rely on only the technical) (data identified in these Supplementary Conditions.))))

(Use the following paragraph if the Contractor is not (authorized to rely on technical data contained in physical (conditions drawings listed in Paragraph SC-4.02.A.2. Delete (the paragraph if there are no physical conditions drawings.)))

B. Limited Reliance by Contractor on Technical Data Authorized. Delete Paragraph 4.02.B of the General Conditions in its entirety and insert the following paragraph:

B. No Reliance by Contractor Authorized. Owner and Engineer do not warrant the accuracy of the physical conditions information and drawings which are not Contract Documents. Contractor uses such information at Contractor's sole risk.

GENERAL NOTES FOR SPECIFIER: Have person responsible for legal and insurance issues review all front-end documents.

C. Section 01015 - PROJECT REQUIREMENTS

(Specifier. Use the following paragraph where sizable amounts of pipeline materials are furnished. Insert a brief description of pipe and specials to be furnished by Owner, including laying length, wall thickness, weight per linear foot, and weight per piece of each kind and size of pipe covered by the Bid.)

(Indicate the delivery time or availability of the delivery schedule for all items.)

(Delete inapplicable portions of the text and supplement as necessary.)

1. PIPELINE MATERIALS TO BE FURNISHED BY OWNER. Materials shall be furnished by Owner for installation by Contractor as follows:

1.01. Pipe.

Delivery of pipe will be made as follows:

- a. Cast Iron. Cast iron pipe will be delivered by truck to the jobsite at _____.
- b. PVC Pipe. PVC pipe will be delivered by truck to the jobsite at _____.

1.02. Pipe Jointing Materials. The following jointing materials and specials will be furnished by Owner to the jobsite, if not included in truck deliveries of pipe:

- a. For Cast Iron Pipe. Bolts, gaskets, and follower rings for all mechanical joints on pipe and fittings. Gaskets and gasket lubricants for push-on joint pipe and fittings.
- b. For Concrete Pipe. Rubber gaskets for joints between concrete piping units and necessary adapter fittings for connections with other types of pipe or fittings and with valves.

Mechanical couplings, flange bolts and gaskets, and other necessary jointing materials shall be provided by Contractor.

1.03. Valves. All valves and accessories therefor will be furnished at the jobsite at _____.

1.04. Installation Data. Installation drawings, laying schedules, and other installation information from the pipe manufacturer will be submitted to Contractor prior to pipe delivery.

2. RESPONSIBILITY FOR MATERIALS AND EQUIPMENT.

2.01. Items Furnished by Owner. Contractor's responsibility for materials furnished by Owner shall begin at the point of delivery on acceptance by Contractor. Contractor shall carefully examine each shipment prior to acceptance and shall reject all defective items. Owner reserves the right, however, to accept items rejected by Contractor and to authorize their installation in the Work.

Defective materials discovered after installation and prior to final acceptance of the Work, where the defect is of a nature not detectable by visual examination and other appropriate field inspection methods, shall be replaced by Owner, together with such additional materials and supplies as may be necessary for their replacement. Contractor shall furnish all necessary tools, equipment, and appliances, and perform all necessary labor, for the removal and replacement of such defective items in a manner acceptable to Engineer; adjustment to the Contract Price for the costs of the removal and replacement shall be made in accordance with Article 11 of the General Conditions.

All materials furnished by Owner which disappear or are damaged after their acceptance by Contractor shall be replaced by and at the expense of

Contractor. Replacements shall conform to the original procurement specifications.

Scheduled delivery dates for equipment and materials to be furnished by Owner are as follows: _____.

Contractor shall accept the risk of any delay in delivery of materials furnished by Owner, and if the Work is delayed, he shall have no claim for damages or contract adjustment other than an extension of time and the waiving of liquidated damages occasioned by the delay.

D. Section 01025 - MEASUREMENT AND PAYMENT

1. The standard specification classifies all excavated material. If rock excavation is to be unclassified, replace Item 23 with the following:

No separate payment shall be made for rock excavation. Excavation and trenching work shall include the removal and subsequent handling of all materials excavated or otherwise removed in performance of the contract Work, regardless of the type, character, composition, or condition thereof.

2. Review items listed in this section. If these are bid items included on the Bid Form that do not appear in this section, a description of the item and the pay limits must be added here.

E. Section 02200 - EARTHWORK

1. Check pipe embedment classes.

2. The standard specifications indicate that rock is classified. If rock excavation is unclassified, delete Paragraph 4 of Section 02200 - EARTHWORK and insert the following:

"4. CLASSIFICATION OF EXCAVATED MATERIALS. No classification of excavated materials will be made. Excavation and trenching work shall include the removal and subsequent handling of all materials excavated or otherwise removed in performance of the contract Work, regardless of the type, character, composition, or condition thereof.

F. Section 02210 - WORK IN NORTH CAROLINA DEPARTMENT OF TRANSPORTATION RIGHTS-OF-WAY

1. **Incorporate Encroachment Special Conditions or attach copy of Encroachment Special Conditions.**
- G. Section 02220 - WORK IN RAILROAD RIGHTS-OF-WAY
1. **Incorporate Encroachment Special Conditions or attach copy of Encroachment Special Conditions.**
- H. Section 02605 - SEWER MANHOLES
1. **Consider deleting requirements for sewer manhole and covers certification for small projects.**
- I. Section 02620 - DUCTILE IRON PIPE
1. **Specify if polyethylene tube encasement is required.**
- J. Section 02630 - 6 INCH TO 12 INCH POLYVINYL CHLORIDE (PVC) PRESSURE PIPE
1. **Specify if polyethylene tube encasement is required.**
- K. Section 02703 - WATER SERVICE AND METERS
1. **Define who provides meters.**
- L. Section 02704 - PIPELINE PRESSURE AND LEAKAGE TESTING, CLEANING AND DISINFECTION
1. **This section indicates Owner will take all bacterial test sampling.**
- M. Section 02800 - PIERS
1. **Concrete and steel piers must be designed and detailed in drawings by Engineers.**
- N. Section 15101 - BUTTERFLY VALVES
1. **Valves and actuators specified in Butterfly Valve Table are for manually actuated valves, 150 psi pressure, and 8 feet per second velocity. Edit if actual pressure or velocity is higher. Edit if any type actuator other than manual is used.**
- O. Section 15102 - ECCENTRIC PLUG VALVES

1. Complete table in plug valve schedule.

GENERAL NOTE

1. You must specify in the Special Conditions section which types of pipe will be allowed for each project. Concrete, PVC, and ductile iron pipe are specified for sewer lines, and PVC and ductile iron pipe are specified for water lines.

End of Section

PROJECT NAME: _____

INDEX OF DRAWINGS

- Sheet 1 - Cover Sheet
- Sheet 2 - Site Plan
- Sheet 3 -
- Sheet 4 -
- Sheet 5 -
- Sheet 6 - Project Details

DESIGN INFORMATION

All projects which use this standard specification shall be designed in accordance with and shall meet all requirements of North Carolina Administrative Code. It is the responsibility of the design engineer to ensure that all requirements are met. Some of these requirements have been summarized below:

1. Please specify the type of pipe or encasement that will be required when 3 feet of cover or minimum separation cannot be maintained, in accordance with NCAC 2H .0219 (i) (2) (H).
2. Please specify the type of pipe or encasement that will be required for sewers that are subject to traffic bearing loads, in accordance with NCAC 2H .0219 (i) (2) (H).
3. Please specify the requirements for all creek crossings. For crossings below water level, the top of the pipe (DIP) should be located at or below the bottom of the streambed. For crossings above water level, the bottom of the pipe (DIP) should be located above the 25-year flood elevations. Specifications should be included which will provide efficient protection of the sewer line including erosion of the creek bank or bottom.
4. Where the required minimum separations cannot be maintained, ferrous sewer pipe with joints equivalent to water main standards must be used. However, minimum separations shall not be less than 25 feet from a private well or 50 feet from a public water supply well, in accordance with NCAC 2H .0219 (i) (2) (G) (xii).
5. Please specify the maximum separation between manholes, in accordance with NCAC 2H .0219 (i) (2) (I).
6. Please provide protection for manholes from the 100-year flood, in accordance with NCAC 2H .0219(j) (4).
7. Please specify that drop manholes are provided where invert separations exceed 2.5 feet, in accordance with NCAC 2H .0219 (i) (2) (J).
8. Please specify that force mains be tested to water main standards, in accordance with NCAC 2H .0219 (i) (2) (G).
9. Please specify that odor and corrosion control must be addressed, in accordance with NCAC 2H .0219 (i) (2) (M).
10. Please address the needs for air release valves to be located at all high points along force mains, in accordance with NCAC 2H .0219 (i) (2) (L).
11. Please specify the following minimum separations:
 - a. Any private or public water supply source, including any WS-1

waters or Class I or Class II impounded reservoirs used as a source of drinking water 100 Feet

- b. Waters classified WS-II, WS-III, B, SA, ORW, HQW, or SB [from normal high water (or tide elevation)] 50 Feet
- c. Any other stream, lake, or impoundment. 10 Feet
- d. Any building foundation. 5 Feet
- e. Any basement 10 Feet
- f. Top slope of embankment or cuts of 2 feet or more vertical height 10 Feet
- g. Interceptor drains. 5 Feet
- h. Groundwater lowering and surface drainage ditches. 10 Feet
- i. Any swimming pool. 10 Feet

- 12. Please specify the anchor spacing for slopes in excess of 20%.
- 13. Please specify the proper infiltration and exfiltration test standards where water main equivalent piping is required.
- 14. Please address protection methods for high velocity manholes and sewer lines.

End of Section